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GOVERNMENT DOCUMENTS

THE CORPORATION OF THE CITY OF HAMILTON

AND

FIRST PHASE CIVIC SQUARE LIMITED

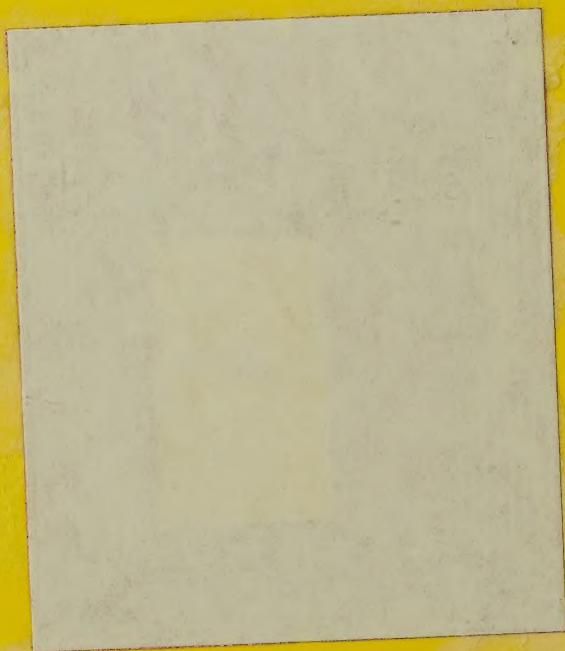
AND

YALE PROPERTIES LIMITED

GROUND LEASE

FRASER & BEATTY
Toronto

ROSS & ROBINSON
Hamilton



GROUND LEASE FOR PART ONE

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GROUND LEASE

THIS INDENTURE made as of the 30th day of
October , 1970.

IN PURSUANCE OF THE SHORT FORMS OF LEASES ACT

B E T W E E N:

THE CORPORATION OF THE CITY OF HAMILTON

(hereinafter referred to as the "Lessor")

OF THE FIRST PART

and

FIRST PHASE CIVIC SQUARE LIMITED

(hereinafter referred to as the "Lessee")

OF THE SECOND PART

and

YALE PROPERTIES LIMITED

(hereinafter referred to as the "Guarantor")

OF THE THIRD PART

WITNESSETH:

WHEREAS pursuant to an agreement (herein defined and referred to as the "Development Agreement") the Lessor has agreed to lease to the Lessee certain lands referred to in the Development Agreement in order that the Lessee may proceed with the construction of Improvements on the demised premises as provided for in the Development Agreement and subject to compliance with the terms and conditions thereof, occupy and enjoy the Improvements and demised premises for the term of this lease in accordance with the terms and conditions of the Development Agreement and upon the terms and conditions and subject to the provisos herein contained.

NOW THEREFORE in consideration of the rents hereby reserved and the covenants herein contained on the part of the

Lessee, the Lessor grants this lease to the Lessee on the terms hereof and in consideration of the demise and the covenants of the Lessor, the parties hereby covenant and agree as follows:

ARTICLE I
DEFINITIONS AND INTERPRETATION

Section 1.01: Defined Terms

For the purpose of this lease and of all indentures, leases, or other instruments supplemental hereto, which may confirm or amend this lease pursuant to its provisions, the following expressions shall have the meanings respectively hereinafter ascribed to them in this Section 1.01:

- (a) "Development Agreement" shall mean the agreement entered into between the Lessor, Greater Hamilton Developers Limited and the Guarantor as of the 3rd day of September, 1970 and to which the form of this lease was annexed as Schedule C;
- (b) "demised premises" shall mean the lands described in Schedule A hereto together with such other lands which may pursuant to the terms of the Development Agreement, from time to time hereafter be added to the land so described, together with any lands or interest in lands or easement or right in the nature of an easement which pursuant to Article XIV hereof or pursuant to amendments to the Development Agreement, from time to time may be added to the lands so described, less any lands or interest in lands or easement or right in the nature of an easement which may, pursuant to the said Article XIV, from time to time hereafter be excepted from the provisions of the lease;
- (c) the "first period of the term" shall mean the period beginning on the 30th day of October, 1970 and ending on the 31st day of October, 2015;
- (d) the "second period of the term" shall mean the twenty-year

period beginning on the 1st day of November, 2015 and ending on the 31st day of October, 2035;

- (e) the "third period of the term" shall mean the twenty-year period beginning on the 1st day of November, 2035, and ending on the 31st day of October, 2055;
- (f) the "final period of the term" shall mean the fourteen-year period beginning on the 1st day of November, 2055 and ending on the 31st day of October, 2069;
- (g) "basic rent" as of any particular time shall mean the net basic annual rental provided for in this lease at the rate specified in Article III of this lease during any of the periods referred to in subsections (c), (d), (e) and (f) of this Section 1.01 exclusive of the other and additional payments to be made by the Lessee as hereinafter provided;
- (h) "lease" or "this lease" shall mean this indenture (including the Schedules) as originally executed and delivered, or if amended or supplemented, as so amended or supplemented inclusive of amendments or additions to the Development Agreement which by their terms affect this lease;
- (i) "mortgage" shall mean any first mortgage or mortgages by the Lessee of the leasehold interest which is created by this lease and includes any deed of trust and mortgage securing bonds or debentures by such mortgage or mortgages;
- (j) "mortgagee" shall mean any mortgagee or mortgagees under a mortgage as above defined, and includes any trustee for bondholders under a deed of trust and mortgage securing bonds or debentures by a mortgage as herein defined;
- (k) "net rentable area" shall exclude Publicly Usable Open Space and shall mean
 - (i) in the case of office, banking, cinema, and other premises not specifically hereinafter defined the area computed by measuring to the inside finish of permanent building walls including all areas within outside walls deducting therefrom stairs, floors devoted exclusively to mechanical purposes, elevator shafts, flues, stacks, pipe shafts and vertical ducts with their enclosing walls but including all washrooms, public, service and kitchen areas, janitor's

closets and electrical closets within and **exclusively** serving a floor. No deductions shall be made for columns and projections necessary to the building;

- (ii) in the case of retail and other commercial premises all the area computed by measuring from the inner surfaces of the outer building walls and from the inner surface of corridor and other permanent partitions and to the centre of partitions that separate the premises from adjoining rentable areas. No deduction shall be made for any areas inside the building line or for columns or projections necessary to the building. No addition shall be made for malls or storage passageways;
- (iii) in the case of areas below grade if the rentable area extends beyond the building line below grade the area calculated by measuring from the curtain wall or finished surface of the retaining wall and from the inner surface of corridor and other permanent partitions and the centre of partitions that separate the adjoining rentable areas. If the rentable area is entirely inside the building line the measurement shall be made from the inner surface of building walls to the inner surface of corridor and other permanent partitions and to the centre of partitions that separate the adjoining rentable areas. No deductions shall be made for columns, projections or footing stones necessary to the building. Provided that no rental shall be payable with respect to areas below grade to the extent that such areas are devoted exclusively to parking (provided that the exception from net rentable area of underground areas devoted exclusively to parking shall only be for the first period of the term; thereafter they shall be included in net rentable area), building services and mechanical facilities, loading ramps or storage ancillary to another use within the net rentable area. No addition shall be made for malls or storage passageways or for access to or egress from the parking areas;

- (iv) In the case of any other areas subleased for commercial purposes (excluding those areas specifically hereinbefore excepted) all the area so leased for such purposes (hereinafter referred to as the "special commercial Improvements");

The Lessor shall be provided by the Lessee with such information and drawings so as to enable it to inspect the Improvements for the purpose of checking the calculation of net rentable area determined on the aforesaid bases, and if the Lessor and Lessee disagree on such calculation it shall be subject to arbitration pursuant to Article XVII hereof;

- (1) "Improvements" shall include the office building, banking pavilion, shopping promenades, cinemas, plazas, malls, parking facilities, Publicly Usable Open Space and other buildings, works, structures and facilities whether free standing or otherwise, ancillary thereto or connected therewith, all fixed plant machinery and equipment and including landscaping and interior and exterior decoration required to be constructed by the Lessee on the demised premises in accordance with the provisions of the Development Agreement;
- (m) "Publicly Usable Open Space" shall mean those areas so designated on Schedule B hereto;
- (n) "Urban Renewal Area" shall mean the redevelopment area designated by By-law No. 10781 as amended by By-law No. 66-76 enacted by the Council of the City of Hamilton on the 29th day of June, 1965 and the 22nd day of February, 1966, respectively and such changes in such area as may be lawfully made from time to time.

Section 1.02: Interpretation

The captions and headings in this lease are inserted for convenience of reference only and do not define, limit or enlarge the scope, meaning or intent of any provision. This lease shall be interpreted and governed by the laws of the Province of Ontario. All of the provisions of this lease shall be deemed and construed to be conditions as well as covenants as though the words specifically expressing or importing covenants or conditions were used in each separate provision hereof.

ARTICLE II

PURPOSE OF LEASE

Section 2.01: Purpose

The parties understand and agree that this lease is entered into for the purpose of implementing the provisions of the Development Agreement and its intent as set out in Section 2.01 thereof as they relate to the demised premises.

Section 2.02: Approvals

The parties acknowledge and agree that Ontario Municipal Board and other approvals may be required with respect to this lease and the Lessor and the Lessee agree to cooperate in the obtaining of such approvals.

ARTICLE III

DEMISE, TERM, RENT AND RENEWAL

Section 3.01: Demise

In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Lessee to be paid observed and performed, the Lessor hereby demises and leases to the Lessee the demised premises subject to and together with the rights and easements reserved in Schedule C hereto.

Section 3.02: Term

To have and to hold the demised premises from the 30th day of October, 1970 and from thenceforth next ensuing and fully to be complete and ended on the 31st day of October, 2069 subject to the provisions hereof with respect to prior termination.

Section 3.03: Rent

Yielding and paying unto the Lessor, its successors and assigns, yearly and every year:

- (a) during the first period of the term a basic rent in equal monthly instalments in advance which shall be the greater of (i) that amount calculated by multiplying the number of square feet of the demised premises (inclusive of that area of the easement described in Schedule C hereto which lies within the demised premises) which have been leased to the Lessee pursuant to the provisions hereof by 48¢ or (ii) that amount calculated by multiplying the number of square feet of the demised premises (inclusive of that area of the easement described in Schedule C hereto which lies within the demised premises) which have been leased to the Lessee by 12¢ and adding thereto an amount calculated by multiplying the number of square feet of the net rentable area of Improvements built when the same are deemed to be completed for assessment purposes by 10¢ together with that amount calculated by multiplying the number of square feet of the net rentable area of the special commercial Improvements built when the same are deemed to be completed for assessment purposes by such amount as may be agreed upon by the Lessor and the Lessee having regard to the nature of their use but in any event such amount shall not exceed 10¢; the said basic rent shall be recalculated as often as may be required until the completion of the Improvements in order to make the requisite proportionate monthly adjustments;
- (b) during the second period of the term an annual rent in equal monthly instalments in advance equal to the greater of
- (i) the annual rent payable during the last year of the first period of the term, or
 - (ii) the ground rent value computed in accordance with Section 3.04 as of six months prior to the end of the first period of the term;
- (c) during the third period of the term an annual rent in equal monthly instalments in advance equal to the greater of
- (i) the annual rent payable during the last year of the second period of the term, or
 - (ii) the ground rent value computed in accordance with Section 3.04 as of six months prior to the end of the second period of the term;

- (d) during the final period of the term an annual rent in equal monthly instalments in advance equal to the greater of
- (i) the annual rent payable during the last year of the third period of the term, or
 - (ii) the ground rent value computed in accordance with Section 3.04 as of six months prior to the end of the third period of the term.

Subject to the provisions of this lease and in particular Section 6.05 hereof if the net rentable area of the Improvements is diminished in the event of damage or destruction either before or after the completion of the Improvements, the basic rent then applicable shall not abate or diminish;

Section 3.04: Determination of Ground Rent Value

- (a) Ground rent value for the purposes of Subsection (b) of Section 3.03 shall mean the market rental of the demised premises determined as of the relevant date, having regard to the term then remaining and all other provisions of this lease then relevant, such determination to be based on the assumption that the demised premises are vacant lands, free from encumbrance and that they may lawfully be used only for the purposes for which they are then actually being used and to, but not exceeding, the density to which the Improvements have then actually been built, provided that the Lessee has maintained and repaired the Improvements, (inclusive of changes, alterations or restoration as permitted by this lease) in accordance with the provisions of this lease;
- (b) The Lessor, not less than two years prior to the commencement of the third period of the term of this lease and again not less than two years prior to the commencement of the fourth period of the term of this lease, shall notify the Lessee in writing of the changes in density and/or uses (hereinafter referred to as "permitted changes") which it will permit from the commencement of and during the balance of the term then remaining and at the same time the Lessor will provide to the Lessee full particulars of the modifications of this lease which the permitted changes will

require. The Lessor agrees to amend the lease, at the request of the Lessee, so as to incorporate the permitted changes. The Lessor, within twelve months of such notification, shall amend or enact or cause to be amended or enacted by-laws so as to make lawful the permitted changes. In the event that any of such permitted changes shall not be permitted by law, the permitted changes shall be adjusted to include only those which are lawful;

- (c) Ground rent value for the purposes of Subsection (c) of Section 3.03 shall mean the market rental of the demised premises determined as of the relevant date. Such determination shall be based on the assumption that the demised premises are vacant lands, free from encumbrance and immediately available for new development and that they may lawfully be used for the greatest, highest and most valuable purpose then available, having regard to the term then remaining and all other provisions of this lease then relevant and as if it had been amended to authorize the permitted changes. The rental calculated as aforesaid is hereinafter in this subsection referred to as the "full rental". Provided that if at the relevant date the Improvements originally constructed on the demised premises, (inclusive of changes, alterations or restoration as permitted by this lease) maintained and repaired in accordance with the provisions of this lease, are still being used and occupied by the Lessee, a ground rent value of the demised premises shall be calculated as of the relevant date, having regard to the term then remaining, and all other provisions of this lease then relevant, such determination to be based on the assumption that the demised premises are vacant lands, free from encumbrance and that they may lawfully be used only for the purposes for which they are then actually being used and to, but not exceeding, the density to which the Improvements have then actually been built, provided that the Lessee has maintained and repaired the Improvements (inclusive of changes, alterations or restoration as permitted by this lease) in accordance with the provisions of this lease. The rental calculated in accordance with the preceding

sentence is hereinafter referred to as the "occupation rental". During the period from November 1st, 2035 to October 31st, 2045, if and so long as the Lessee is continuing to use and occupy the Improvements as originally constructed (inclusive of changes, alterations or restoration as permitted by this lease) maintained and repaired in accordance with the provisions of this lease, the rental for such ten year period shall be as follows:

- (i) for the period from November 1st, 2035 to October 31st, 2036, the occupation rental plus 10% of the difference between the occupation rental and the full rental;
- (ii) for the period from November 1st, 2036 to October 31st, 2037, the occupation rental plus 20% of the difference between the occupation rental and the full rental;
- (iii) for the period from November 1st, 2037 to October 31st, 2038, the occupation rental plus 30% of the difference between the occupation rental and the full rental;
- (iv) for the period from November 1st, 2038 to October 31st, 2039, the occupation rental plus 40% of the difference between the occupation rental and the full rental;
- (v) for the period from November 1st, 2039 to October 31st, 2040, the occupation rental plus 50% of the difference between the occupation rental and the full rental;
- (vi) for the period from November 1st, 2040 to October 31st, 2041, the occupation rental plus 60% of the difference between the occupation rental and the full rental;
- (vii) for the period from November 1st, 2041 to October 31st, 2042, the occupation rental plus 70% of the difference between the occupation rental and the full rental;
- (viii) for the period from November 1st, 2042 to October 31st, 2043, the occupation rental plus 80% of the difference between the occupation rental and the full rental;
- (ix) for the period from November 1st, 2043 to October 31st, 2044, the occupation rental plus 90% of the difference between the occupation rental and the full rental;
- (x) for the period from November 1st 2044, to October 31st, 2045, the full rental.

During the period from November 1st, 2045 to October 31st, 2055 the Lessee shall pay to the Lessor the full rental.

(d) Ground rent value for the purposes of Subsection (d) of Section 3.03 shall mean the market rental of the demised premises determined as of the relevant date. Such determination shall be based on the assumption that the demised premises are vacant lands, free from encumbrance and immediately available for new development and that they may lawfully be used for the greatest, highest and most valuable purpose then available, having regard to the term then remaining and all other provisions of this lease then relevant and as if it had been amended to authorize the permitted changes.

If the Lessor and Lessee shall not have agreed upon any of the said ground rent values within three months of any dates upon which they are required to be determined pursuant to Subsections (b), (c) and (d) of Section 3.03, then they shall be determined by arbitration as provided for by Article XVII hereof.

Section 3.05: Basic Rent for Second, Third and Final Periods of Term

Once the basic rent has been determined for the second, third and final periods of the term, either by agreement or by arbitration, the Lessor and Lessee agree that they will execute an agreement confirming and recording such ground rent value as so determined and such agreement shall be supplemental to and shall form a part of this lease.

Section 3.06: Payments as Additional Rent

The Lessee covenants with the Lessor that it will pay unto the Lessor the rent reserved hereby in the manner hereinbefore mentioned without any deduction whatsoever and that the Lessee will in each and every year during the term pay as additional rent and discharge, within 30 days after the same shall become due and payable, all taxes, rates, duties, assessments, including local improvement rates and other charges that may be levied, rated, charged or assessed against the demised premises, the

Improvements, all equipment and facilities thereon or therein and any other property of any nature whatsoever thereon or therein, (but not including any which may be levied in respect of the cost of construction and/or maintenance of tunnels and/or overpasses which connect with the demised premises) and every tax and licence fee in respect of any and every business carried on thereon or therein in respect of the use or occupancy thereof by the Lessee (and any and every sub-lessee and licensee) whether such taxes, rates, duties, charges, assessments and licence fees are charged by any municipal, parliamentary, school or other body during the term, (but excluding such taxes as income or capital gain taxes or estate or inheritance or retail sales taxes imposed upon or with respect to the Lessor or any successor or assign of the Lessor), and all charges for electric current, water and other rates and all other charges for utilities or services in connection with such business or occupation, nonpayment of which would create a lien or charge against the demised premises or Improvements and will indemnify and keep indemnified the Lessor from and against payment of all loss, costs, charges and expenses occasioned by or arising from any and all such taxes, rates, duties, charges, assessment and licence fees; and any such liens, costs, charges and expenses suffered by the Lessor may be collected by the Lessor as rent with all rights of distress and otherwise as reserved to the Lessor in respect of rent in arrears. Notwithstanding the foregoing, the Lessor in its capacity as a municipal corporation agrees not to levy any charges or rates against the demised premises or the Lessee resulting from the construction of any tunnels and/or overpasses which connect with the demised premises constructed or caused or permitted to be constructed by the Lessor or with respect to the maintenance of any such tunnels and/or overpasses. The Lessee further covenants and agrees that upon the written request of the Lessor it will promptly make available for inspection receipts for payment of all taxes, rates, duties, assessments, including local improvement rates and other charges in respect of the demised premises and the Improvements and all equipment and facilities thereon or therein which were due and payable up to one month prior to such request, and in any event will

furnish to the Lessor, if requested by the Lessor, evidence of payments satisfactory to the Lessor before the 31st day of January in each year covering the payments for the preceding year. The Lessee shall have the right from time to time to appeal (in the name of the Lessor if the Lessee so elects) any assessment of the demised premises and Improvements or other charge or amount referred to in this Section 3.06 provided that in connection with any appeal of the assessment, the Lessee hereby waives in favour of the Lessor in its capacity as a municipal corporation, all rights during the first period of the term of this lease to use as a ground for such appeal the quantum of the basic rent. Notwithstanding the foregoing, nothing shall be deemed to prevent the Lessor in its capacity as a municipal corporation, from asserting a position contrary to that of the Lessee, with respect to the quantum of assessment of the demised premises and Improvements.

The Lessee further agrees to pay as additional rent, in equal monthly instalments in advance that annual amount calculated by multiplying by 70¢ the number of square feet of net rentable area of Improvements constructed on the demised premises and subleased and with respect to which the sublessees have an immediate right of entry, in excess of 90% of the total net rentable area of the Improvements, when 90% of such net rentable area of the Improvements has been constructed and so subleased. The additional rent of 70¢ per square foot per annum, calculated as aforesaid, shall continue to be paid only until such time as the aggregate of the annual basic rents (by whomsoever paid) for Phases One to Five inclusive (as provided for in the Development Agreement) equals or exceeds \$180,000 or until ten years after the date of the commencement of payment of such additional rent, whichever occurs earlier. For the purpose of ascertaining the date of commencement of such additional rent the Lessee shall make available for inspection by the Lessor at all reasonable times such books, documents and records as may be required.

**Section 3.07: Changes in Area of Demised
Premises and Improvements**

If the net rentable area of the Improvements is increased

or pursuant to Article XIV hereof any additional land or interest in land or easement or right in the nature of an easement is added to the demised premises, the Lessee will in each and every year during the said term pay as additional rent and as and when the same shall become due and payable the amount or amounts of any rent agreed to be paid therefor and any other charge payable in respect thereof.

Section 3.08: Rent to be Net

All rent required to be paid by the Lessee hereunder shall be paid without any deduction, abatement or setoff whatsoever, it being the intention of this lease that all expenses, costs, payments and outgoings incurred in respect of the demised premises and the Improvements or for any other matter or thing affecting the demised premises shall (unless otherwise expressly stipulated herein to the contrary) be borne by the Lessee, that the rent herein provided shall be absolutely net to the Lessor and free of all abatement, setoff or deduction of realty taxes, charges, rates, assessments, expenses, costs, payments or outgoings of every nature arising from or related to the demised premises or any Improvements thereon and that, subject to the provisions of this lease, the Lessee, shall pay all such taxes, charges, rates, assessments, expenses, costs, payments and outgoings.

Section 3.09: Interest on Amounts in Arrears

When rent or any other amount payable hereunder by the Lessee to the Lessor shall be in arrears, such amount shall bear interest until paid at a rate equal to the then current interest rate being charged by life insurance companies, loan companies or other similar institutions authorized to make mortgage loans in the Province of Ontario, for first mortgage loans on premises similar to the demised premises and the Lessor shall have all remedies for the collection of such interest if unpaid after demand as in the case of rent in arrears but this stipulation for interest shall not prejudice or affect any other remedies of the Lessor under this lease. Any sums, costs, expenses or ~~other amounts from time to time~~ due and payable by the Lessee

to the Lessor under the provisions of this lease, including sums payable by way of indemnity, and whether expressed to be rent or not, may at the option of the Lessor be treated as and deemed to be rent, in which event the Lessor shall have all remedies for the collection of such sums, when in arrears, as are available to the Lessor for the collection of rent in arrears. Notwithstanding the foregoing, nothing shall be deemed to deprive the Lessor, in its capacity as a municipal corporation, of any of its rights with respect to the collection of taxes, or the rate of interest chargeable on arrears of taxes.

Section 3.10: Adjustment of Rent

In the event that the amount of rent at any time payable hereunder is subject to a revision which is dependent upon a computation or determination to be made pursuant to any provision of this Article III but which has not yet been made and if consequently the amount of the revision of rent cannot yet be ascertained, the Lessee shall, pending the making of the computation or determination, continue to pay rent by monthly instalments equal to the monthly instalments payable in the period immediately preceding the date from which such revision of rent is to be computed or determined and when the revised rent has been ascertained the Lessee shall pay to the Lessor the amount by which the rent, as computed or determined, exceeds the amount actually paid during the period between the revision and the computation or determination. No interest shall be payable by the Lessee on the amount so paid to the Lessor if it is paid within ten days of its computation or determination. Any dispute with respect to such computation or determination shall be determined by arbitration as provided for in Article XVII hereof.

Section 3.11: Negotiation for New Lease

During the period from November 1st, 2010 to October 31st, 2060, the Lessor and Lessee agree that if in their joint opinion the Improvements have become obsolete, the Lessee shall have the right during the said period to negotiate with the Lessor for a new lease upon such terms as may be mutually agreed

provided that the Lessee undertakes to erect new improvements, satisfactory to the Lessor, on the demised premises.

ARTICLE IV
IMPROVEMENTS

Section 4.01: Completion of Improvements

As part of the consideration for this lease the Lessee agrees to complete all of the Improvements on the demised premises in accordance with the provisions of the Development Agreement. If the Lessee shall default in the completion of all of the Improvements to be constructed on the demised premises in accordance with the provisions of the Development Agreement, the Lessor may at its option terminate this lease subject to the provisions of Article XV hereof provided that notwithstanding anything herein contained if all of the Improvements to be constructed on the demised premises have been certified to have been completed under Section 4.05(b) of the Development Agreement, the Development Agreement shall have no further force or effect with respect to this lease except as to the provisions for the calculation of the amount of the additional rent as provided for in Section 3.06 hereof.

Section 4.02: Use and Ownership of Improvements

The Lessor covenants with the Lessee for quiet enjoyment and to observe and perform all the covenants and provisos of this lease on the part of the Lessor to be observed and performed. The Lessor and the Lessee agree that the title to and ownership of the Improvements and all alterations, additions, changes and substitutions thereto shall at all times during the term hereby granted be vested in the Lessee notwithstanding any rule of law as to immediate vesting of the title to and ownership of the Improvements in the Lessor as owner of the freehold. The title to and the ownership of the Improvements shall not pass to and become vested in the Lessor until the termination of this lease, either by passage of time or other termination and subject to Article XV hereof, upon such termination the Improvements

shall become the absolute property of the Lessor, free of all encumbrance provided that the Lessor's absolute right of property in the Improvements which will arise upon the termination of this lease shall take priority over any other interest in the Improvements which may now or hereafter be created by the Lessee and that all dealings by the Lessee with the Improvements which in any way affect the title thereof shall be made expressly subject to this right of the Lessor and the Lessee shall not assign, encumber, or otherwise deal with the Improvements separately from any permitted dealing with the leasehold interest under this lease to the intent that no person shall hold or enjoy any interest in this lease acquired from the Lessee who does not at the same time hold a like interest in the Improvements.

Section 4.03: Ownership of Tenant's Fixtures

The provisions of Section 4.02 shall not be construed to prevent the Lessee from conferring on tenants or occupants of parts of the Improvements the right of property in or the right to remove fixtures or improvements which are of the nature of usual tenant's fixtures or improvements and normally removable by them and which are not part of the structure or an essential part of the Improvements. The Lessee shall make good or shall cause such tenants to make good any damage to the Improvements caused by the removal of any tenant's fixtures or improvements.

Section 4.04: Removal of Tenant's Fixtures

If the Lessee is not in default hereunder, the Lessee may at, or immediately before the termination of this lease, either by passage of time or other termination, remove its furniture, chattels and usual tenant's fixtures or improvements not forming any part of the structure or an essential part of the Improvements and the Lessee may from time to time remove such tenants's furniture, chattels, fixtures or improvements in the ordinary course of its business or in the event of any reconstruction, changes or alterations of the Improvements pursuant to the provisions hereof.

Section 4.05: Use of Demised Premises

The Lessee covenants and agrees that (unless with the approval in writing of the Lessor, which approval shall not be unreasonably withheld) neither the demised premises nor the Improvements shall be used for any purpose or purposes whatsoever except as a first class office and retail commercial development, (the uses in the retail commercial development to be similar to those in comparable first class developments), that the area of retail commercial space shall not be increased by more than 7% of the area allocated for such purpose at the time when the Improvements have been certified to have been completed by the Review Authority pursuant to Section 4.05(b) of the Development Agreement, that the net rentable area, except for the retail commercial space which may be increased by 7% as aforesaid, shall not be increased beyond the net rentable area constructed at the time when the Improvements have been certified to have been completed by the Review Authority pursuant to Section 4.05(b) of the Development Agreement, that the area of Publicly Usable Open Space shall not be diminished and that no part of the demised premises or Improvements shall be used at any time for any purpose or in such manner which would be a nuisance. The Lessee at its expense shall maintain, repair and replace as required under the terms of this lease the Publicly Usable Open Space and shall at all times permit it to be used by the public for such purposes as are from time to time permitted in public parks in the City of Hamilton and are appropriate to the development. The Lessor agrees to provide police protection for such Publicly Usable Open Space as may be required in the judgment of the Lessor and at least to the same extent as provided during the term of this lease to public parks in the City of Hamilton. The Lessee shall also permit access to the public at all reasonable hours to the malls at concourse and plaza level. The Lessee also agrees at all times during the term of this lease to operate, maintain, repair and replace the Improvements on the demised premises and its own pedestrian and vehicular access thereto so as to complement and achieve the best possible integration of their use, access and function with the other uses in the Urban Renewal Area and the immediately surrounding area.

Section 4.06: Insurance

In addition to the requirements as to insurance contained in the Development Agreement the Lessee covenants and agrees with the Lessor as follows:

- (a) At all times during the term of this lease the Lessee at its own cost and expense shall effect and keep in force insurance protecting both the Lessor and the Lessee (without any rights of cross claim or subrogation against the Lessor) against claims for personal injury, death, property damage, or third party or public liability claims arising from any accident or occurrence upon or in the demised premises and the Improvements thereon, from any cause to an amount of not less than \$5,000,000 (or from time to time such greater amounts as shall be sufficient having regard to any reduction in the real value of the Canadian dollar as determined by the Lessor acting reasonably to afford equivalent protection) for personal injury, death, property, or other claims in respect of any one accident or occurrence;
- (b) The Lessee, at its own cost and expense, shall effect and keep in force during the term of this lease, pressure vessel insurance protecting both the Lessor and the Lessee in respect of such pressure vessels and ancillary electrical machinery such as generators and switchpanels as the Lessor may from time to time reasonably deem necessary to insure in such amount in respect of such risks as are normally covered by prudent owners of similar properties in Ontario (which coverage shall include loss or damage caused by rupture of steam pipes);
- (c) At all times during the term of this lease the Lessee shall at its own cost and expense maintain in accordance with policy terms and conditions and with any one or more companies reasonably satisfactory to the Lessor rental income insurance for loss of rental income because of loss or damage caused by any of the perils against which the Lessee shall have insured the Improvements to the value of not less than 40 per cent of all rents normally received in any twelve-month period from tenants of the Lessee;

(d) At all times during the term of this lease the Lessee shall at its own cost and expense insure and keep insured or cause to be insured and kept insured the Improvements in accordance with policy terms and conditions in any one or more companies approved by the Lessor (such approval not to be unreasonably withheld) in a sum, at the Lessee's option of not less than 80% (without any co-insurance provision) or 100% (with a 90% co-insurance provision) of the full replacement value of the Improvements (excluding the replacement value of foundations and architectural fees relating to such foundations) upon the demised premises protecting the Lessor, the Lessee and any mortgagee (without any rights of cross claim or subrogation against the Lessor) from any loss or damage caused by:

- (i) fire or such other perils as may from time to time be included in the standard fire insurance additional perils supplementary contract generally available in Ontario;
- (ii) risks normally insured against in Ontario for buildings and improvements of construction, location and uses similar to the Improvements including without limitation, plate glass insurance.

Provided that if there is a 90% co-insurance provision as aforesaid such a policy shall require the insurer or insurers at all times to ensure that the actual full replacement value is insured against so as to prevent the Lessor or the Lessee from becoming a co-insurer under the terms of such policy or policies and to permit full recovery in the event of loss;

For the purposes of this subsection replacement value shall be determined on such basis as may be agreed upon. If the parties are unable to agree as to what constitutes a proper basis for the purpose of the foregoing provisions of this subsection the question shall be determined by arbitration as provided for in Article XVII hereof,

(e) Any and all policies of insurance referred to herein shall be written in the name of the Lessee as the insured with

loss, subject to the provisions of Section 4.06(g) hereof, payable to the Lessor, the Lessee and any mortgagee as their respective interests may appear, and shall contain a subrogation clause to the effect that any release from liability entered into by the insured, prior to any loss, shall not affect the right of the insured or the Lessor or any mortgagee to recover;

- (f) The Lessee hereby releases the Lessor, its successors and assigns, from any and all liability for loss or damage caused by any of the perils against which the Lessee shall have insured or pursuant to the terms of this lease is obligated to insure the Improvements or any part thereof, and whether or not such loss or damage may have arisen out of the negligence of the Lessor, and the Lessee hereby covenants to indemnify and save harmless (to the limits to which it is required to insure under this lease) the Lessor from and against all manner of actions, causes of action, suits, damages, loss, costs, claims and demands of any nature whatsoever relating to such loss or damage;
- (g) It is the intention of the parties hereto and they hereby agree that the proceeds of any policies of insurance referred to in Section 4.06(b) and Section 4.06(d) hereof shall be payable as follows:
 - (i) Where such insurance proceeds are less than \$100,000 they shall be payable to the Lessee who shall forthwith expend and apply them in rebuilding, reinstating and repairing the Improvements as required by the provisions of this lease and in case such proceeds shall be insufficient for the purpose, the Lessee will make good any deficiency;
 - (ii) Where such insurance proceeds are payable in an amount in excess of \$100,000 but not exceeding \$200,000 they shall be paid to the Lessor or, at the option of the Lessee, to the Lessor and any mortgagee jointly, and the cost of rebuilding, reinstating and repairing the Improvements as required by the terms of this lease shall be borne by the Lessee; payment for the work shall be made to the Lessee in a lump sum on completion

of the said rebuilding, reinstating and repairing; subject to subclauses (iii) and (iv) hereof any interest accrued on such proceeds shall be added to such lump sum at the time of its payment to the Lessee;

- (iii) Should the Lessee fail to effect such rebuilding, reinstating and repairing in accordance with the provisions of this lease within a reasonable time, the Lessor shall be entitled to effect the same itself, retain any insurance moneys against the cost, and recover any balance from the Lessee; any surplus insurance moneys remaining after payment for such work shall be paid to the Lessee if it is not then in default under this lease;
- (iv) When at the time of the occurrence of the damage or the completion of such rebuilding, reinstating and repairing the Lessee is in default to the Lessor under the terms of this lease but the Lessor has not elected to terminate the lease, the Lessor shall be entitled, out of any insurance moneys in its hands, or in the hands of the Lessor and mortgagee jointly, to retain any moneys not paid over for the cost of such work against the rectification of the Lessee's default;
- (v) Where such insurance proceeds exceed \$200,000 they shall be paid to a Canadian chartered bank or to a trust or loan company authorized to carry on business in the Province of Ontario, designated from time to time by the Lessee and mortgagee jointly, to the joint account of the Lessor, the Lessee and any mortgagee. Work in process shall be paid for in instalments as progress payments out of the insurance proceeds. At all times there shall be retained in such account sufficient of the insurance proceeds to pay for the estimated cost of repair outstanding at the date any progress

payment is made. Before any contract is entered into by the Lessor, Lessee or mortgagee for the carrying out of any repair work pursuant to this section, copies of the estimates for any work and the contracts for the completion of the work shall be submitted to such of the Lessor, Lessee and mortgagee as shall not be parties to such contracts. Any progress payments to be made under this clause to the Lessor, Lessee or mortgagee, shall not be made without the submission of a statement, certified by the architect of the party to whom the payments are to be made, stating the estimated amount required to complete the work of repair at the date of the certificate, the amount claimed by individual contractors at that date, the amount of any payments made at that date for work already done, and verifying the standard and quality of the work already done. In making any payment from such account under this clause regard shall be had to mechanics' lien legislation applicable in the Province of Ontario and there shall be retained in such account for the period specified in such legislation the amount of any hold-back required. In case of dispute over the outstanding cost or the filing of liens on the Improvements or demised premises arising out of the work of repair, there shall be no obligation to make or authorize any progress or lump sum payment until the dispute is settled or the lien discharged, as the primary duty of repair falls on the Lessee. Should this lease be terminated, for whatever cause, pursuant to the terms hereof, all moneys remaining in the said account shall be payable to the Lessor, Lessee and any mortgagee as their respective interests may appear immediately prior to such termination notwithstanding anything to the contrary in this lease. Should the repairs be completed and should after the hold-back period there remain moneys in the said account, inclusive of interest on such moneys, if any, any such sums shall be paid to the Lessee if it is not then in default under this lease.

In case of any dispute as to the terms of this clause (g) of Section 4.06, such dispute shall be the subject of arbitration in accordance with Article XVII hereof;

- (h) The Lessee shall pay all premiums and costs of all insurance required to be effected by the Lessee under any provision of this lease and shall from time to time keep on file with the Lessor certified copies of insurance policies, renewal contracts and other documents sufficient to show and establish accurately, at all times, the current status of policies in force, and in particular shall submit to the Lessor before the expiration of every current policy, evidence of the renewal of such policy or the issuance of a replacement policy and of the payment of all premiums due for such renewal or replacement, and shall within seventy-two hours notify the Lessor of any cancellation or intended cancellation by any insurer of any policy or any circumstances known to the Lessee materially affecting its coverage. The Lessee shall not cancel any policy of insurance without the prior written consent of the Lessor, which consent shall not be unreasonably withheld. Each policy shall provide that no cancellation shall be effective without thirty days prior notice by the insurer to the Lessor;
- (i) If the Lessee shall be in default with respect to any of its obligations under this lease regarding insurance, including the obligation to submit proof of insurance to the Lessor, the Lessor may, but shall not be obliged to, place any insurance at the cost and expense of the Lessee or pay any arrears of premium, and any expense incurred by the Lessor shall be reimbursed to it by the Lessee on demand, and if unpaid after demand, the Lessor shall have all remedies for the collection thereof as in the case of rent in arrears;
- (j) Nothing in this section shall require the Lessee to duplicate any insurance policies or bonds required by the Development Agreement so long as the same are required to be kept in force under the provisions of the Development Agreement.

ARTICLE V

LESSOR AS SUBLESSEE

Section 5.01: Subleasing from Lessee

Should the Lessor become a sublessee of the Lessee pursuant to the Development Agreement or otherwise, all rights, benefits and obligations of the Lessor hereunder shall continue notwithstanding such sublease but without any merging with or any derogation from the rights, benefits and obligations under such sublease and the Lessor shall also have the right further to sublet premises demised under such a sublease.

ARTICLE VI

USE AND MAINTENANCE OF DEMISED PREMISES

Section 6.01: Services

Except as provided in the Development Agreement, the Lessor shall not be obliged to furnish any services or facilities or make any repairs or alterations to the demised premises or the Improvements, the Lessee hereby assuming full and sole responsibility for the condition, operation, repair, replacement, relocation, maintenance and management of the demised premises and the Improvements.

Section 6.02: Operation

The Lessee shall operate, manage and maintain the Improvements as a first quality office and commercial development and (in addition to performing all its other covenants under this lease) shall properly and adequately supervise the Improvements, shall supply heat, air-conditioning and other necessary building services to tenants and occupants whenever reasonably required, shall keep the Improvements and the demised premises neat and

clean, shall impose and enforce regulations relating to the use and occupancy of space in the Improvements consistent with a high quality development, shall maintain the general appearance and standard of the Improvements and shall generally manage the Improvements as would a prudent owner.

Section 6.03: Repairs

The Lessee at its own cost and expense shall during the entire term, put and keep in good order and condition or shall cause to be put and kept in good order and condition the demised premises and the Improvements and the appurtenances and equipment thereof, both inside and outside, including but not limited to Publicly Usable Open Space, fixtures, walls, foundations, roofs, vaults, elevators, escalators and similar devices, heating and air conditioning equipment, sidewalks, yards and other like areas, water and sewer mains and connections (apart from the sewers contained in the easement reserved under the provisions of Schedule C hereof to the Lessor), water, steam, gas and electric pipes and conduits, and all other fixtures in and appurtenances to the demised premises and the Improvements and the machinery and equipment used and required in the operation thereof, whether or not enumerated herein, and shall, in the same manner and to the same extent as a prudent owner, make any and all necessary repairs, replacements, alterations, additions, changes, substitutions and improvements, ordinary or extraordinary, structural or otherwise, and keep the Improvements and aforesaid appurtenances and equipment fully usable for all the purposes for which the Improvements were erected and constructed and the aforesaid appurtenances and equipment were supplied and installed. Such repairs shall be in all respects to a standard at least equal in quality of material and workmanship to the original work and material in the Improvements or to any more modern standard as may then be prevailing at least equal, under the circumstances, to the quality of the original work and material and shall meet the requirements of municipal or governmental authorities and the fire insurance underwriters. The Lessee shall not commit or suffer to be

committed any waste or injury to the demised premises or the Improvements or any part thereof or use any of the same for any illegal or unlawful purpose or in any manner which will result in the cancellation of any insurance or in the refusal of any insurer to issue any insurance as requested. The Lessee shall at all times at its own expense except to the extent that it may be relieved therefrom by municipal by-laws or regulations, keep the sidewalks, curbs, Publicly Usable Open Space, area ways, plazas, concourse and service levels and rights-of-way forming part of the demised premises in good condition and repair and reasonably clean from rubbish, ice and snow and shall not encumber or obstruct the same or allow the same to be encumbered or obstructed in any manner except for the reasonable requirements of deliveries, construction, repair and reconstruction as related to the demised premises and except as permitted by the Development Agreement. The Lessee shall maintain all Publicly Usable Open Space, including without limiting the generality of the foregoing all landscaped areas, pools, fountains and other components within the demised premises, in good order and condition. The Lessee shall not injure or disfigure the demised premises or the Improvements or permit, to the extent which is within its reasonable power, the same to be injured or disfigured in any way. At the expiration or other termination of this lease, the Lessee shall, except as otherwise expressly provided herein, surrender and deliver up the demised premises with the Improvements, and the aforesaid appurtenances and equipment thereof, or any replacements thereof or substitutions therefor, in good order and condition. The Lessee accepts the demised premises in such condition as they may be at the time of delivery, knowing the condition thereof, and agreeing that the Lessor has made no representation, warranty or agreement with respect thereto.

Section 6.04: Changes and Alterations

The Lessee shall not make or permit to be made any repairs, replacements, alterations, additions, changes, substitutions or improvements (hereinafter collectively referred to as the "alterations") affecting the net rentable area of the Improvements, the Publicly Usable Open Space, areas open to the public, the external appearance of the Improvements or the operations of the mechanical systems in or connected with the Improvements, which would change their nature, area or appearance as originally constructed without first obtaining the written approval of the Lessor thereto, which the Lessor agrees not to unreasonably withhold provided that the Lessee is not in default hereunder and that such changes and alterations are in reasonable conformity with the Improvements as originally constructed or as permitted to be changed by Section 4.05 hereof. Before requesting the Lessor's approval, the Lessee shall submit or cause to be submitted in duplicate to the Lessor detailed drawings, elevations (where applicable), specifications (including materials to be used), location (where applicable) and cost estimates of such proposed alterations, one of which copies may be retained by the Lessor. Such alterations shall meet the requirements of all municipal, provincial, federal and other governmental or other authorities, of the fire insurance underwriters and of the mortgagee, if any. All such alterations if estimated to be in excess of \$100,000 in cost shall be by written contract or contracts and the Lessee agrees, if and when requested by the Lessor, to produce to the Lessor an executed copy of such contract or contracts. In the event that any such contract is for an amount in excess of \$250,000, the Lessee agrees that before the commencement of any such alterations it will, at its own cost and expense, if required by the Lessor, deliver or cause to be delivered to the Lessor a performance of contract bond satisfactory to the Lessor providing for the due and proper completion by the contractor of such alterations in accordance with the contract therefor, such performance of contract bond to be with a surety company licensed to do business

in the Province of Ontario and to be in the amount of 100 per cent of the estimated cost of such alterations as certified by the architect in charge of the same. The said contract shall provide

- (a) for the completion of such alterations according to the terms and provisions set out in this Section 6.04 within a reasonable period (excluding delays by strike, lockout, war, rebellion, material or labour shortage due to national emergency, fire, flood, wind, water, or other casualty or by any other matter not within the contractor's control and not caused by the contractor's default or act of commission or omission and not avoidable by exercise of reasonable effort or foresight), in a good and workmanlike manner, in accordance with the approved plans, drawings, revisions (where applicable), specifications (including materials to be used), location (where applicable) and cost estimates certified and verified as aforesaid and in accordance with all requirements of the law, and
- (b) for payment and discharge of any mechanics' or building liens which may be filed in connection therewith, up to the date of the actual completion of such alterations, as certified by the architect in charge of the same and up to and including the last day for filing claims for mechanics' liens, immediately after which the said performance of contract bond may be cancelled and the surety released.

The Lessee covenants and agrees that any alterations or other additional work once begun shall be prosecuted with reasonable diligence to completion free and clear of any and all mechanics' liens or other liens, conditional sale contracts, chattel mortgages or similar claims or encumbrances against the demised premises, the Improvements, the Lessor or any mortgagee, and performed in all respects in accordance with the law.

Section 6.05: Damage or Destruction

- (a) Subject as hereinafter provided the partial destruction or damage or complete destruction by fire or other casualty

of the Improvements shall not terminate this lease or entitle the Lessee to surrender possession of the demised premises or to demand any abatement or reduction of the rent or additional rent or other charges payable under this lease, any law or statute now or in the future to the contrary notwithstanding.

- (b) In the case of damage to, or total or partial destruction of the Improvements or any part thereof, the Lessee shall give the Lessor prompt notice thereof, and shall promptly proceed, at its own cost and expense, to restore the Improvements so damaged to the same condition as prevailed immediately prior to the occurrence of such damage in accordance with Sections 6.03 and 6.04 hereof where applicable. The Lessee shall furnish the Lessor with a written estimate of an architect qualified to practice in the Province of Ontario, selected by the Lessee and approved by the Lessor, (which approval shall not be unreasonably withheld) of the cost fully to repair such damage or destruction. The proceeds of all policies of insurance referred to in Sections 4.06(b) and 4.06(d) other than policies of rental insurance or public liability insurance in respect of such damage or destruction shall be used for the purpose of the repair and/or restoration of the demised premises and Improvements in accordance with the provisions of Section 4.06(g) hereof.
- (c) If the Improvements shall be destroyed or damaged and in the opinion of the Lessee's architect as certified to the Lessor either the estimated cost of repairing such destruction or damage exceeds four times the annual rent payable hereunder in the 86th lease year, or the time reasonably anticipated as being necessary for the repair with due diligence of such destruction or damage exceeds six months, and if such destruction or damage shall have occurred after the expiration of the 86th lease year, and if the Lessee shall be entitled to terminate and shall terminate all existing subleases and agreements for subleases with sublessees and occupants of the Improvements, and shall not be in default under this

lease, the Lessee shall have the option by written notice given to the Lessor and to the mortgagee, if any, within 90 days after the occurrence of such destruction or damage to terminate this lease, such termination to take effect 60 days after the exercise of the option. On such termination, notwithstanding anything contained in this lease, any law or statute to the contrary, all proceeds of insurance or other moneys payable in respect of such destruction or damage shall be used to pay and fully satisfy to and including the date of payment, in accordance with the following priorities, the following:

Firstly, any arrears of taxes levied with respect to the demised premises and the Improvements,

Secondly, any unpaid principal, interest and other outstanding obligations of any mortgage, the said unpaid principal, interest and other outstanding obligations to be calculated and paid to and including the date of payment (the rights of the mortgagee to such moneys to be, and to be deemed to be, those existing immediately prior to the exercise of the said option), and

Thirdly, the cost of demolition of the Improvements and/or restoration of the demised premises to the condition of vacant lands so as to permit new construction.

The balance, if any, of such moneys remaining after payment and full satisfaction as aforesaid, shall be divided between the Lessor and the Lessee as their respective interests therein may appear (such interests to be, and to be deemed to be, those existing immediately prior to the exercise of the said option) in such proportions as may be agreed, having regard, inter alia, to the Lessee's loss of future profits, to the then present value of the rents payable hereunder, to the then present value of the municipal taxes on the demised premises and Improvements being received by the Lessor in its capacity as a municipal corporation immediately prior to such damage or destruction and to the Lessor's right to the Improvements at the end of the term had such destruction or damage not occurred. In default of agreement, the division of such moneys shall be determined by arbitration as hereinafter provided. In the event of termination

of this lease as aforesaid, rent and all other charges affecting the demised premises shall be paid and adjusted to the date of termination.

- (d) Should the Improvements or any major component thereof be destroyed or damaged totally or to such an extent as to render 85% or more of the subleasable area thereof unusable and should the Improvements or any major component thereof be so destroyed or damaged as to render the portion in question incapable of being rebuilt and/or repaired and restored with reasonable diligence within twenty-four months of the happening of such destruction or damage (as certified by the Lessee's architect) and if the Lessee shall be prevented for a period of 12 months from starting to rebuild, repair or restore the same for any of the reasons set out in Section 9.01 hereof, then the Lessee may at its option by notice in writing to be given to the Lessor and to the Mortgagee, if any, within 15 months after the date of the destruction or damage (which notice shall specify the cause which prevented commencing the rebuilding, repairing or restoring of the portion in question, the reasonableness of such cause, to be subject to arbitration in accordance with Article XVII) terminate this lease wholly or in respect of the destroyed or damaged major component, such termination to take effect 60 days after the exercise of the option. On such termination, notwithstanding anything contained in this lease, any law or statute to the contrary, all proceeds of insurance or other moneys payable in respect of such destruction or damage shall be used to pay and fully satisfy to and including the date of payment, in accordance with the following priorities, the following:

Firstly, any arrears of taxes levied in respect of the portion in question,

Secondly, any unpaid principal, interest and other outstanding obligations of any mortgage, the said unpaid principal, interest and other outstanding obligations to be calculated and paid to and including the date of payment (the rights of the mortgagee to such moneys to be, and to be deemed to be, those existing immediately prior to the exercise of the said option), and

Thirdly, the cost of demolition of the Improvements or damaged major component, as the case may be, and/or restoration

of the relevant portion of the demised premises to the condition of vacant lands so as to permit new construction.

The balance, if any, of such moneys, remaining after payment and full satisfaction as aforesaid, shall be divided between the Lessor and the Lessee as their respective interests therein may appear (such interests to be, and to be deemed to be, those existing immediately prior to the Lessee giving such notice) in such proportions as may be agreed, having regard, inter alia, to the Lessee's loss of future profits with respect to the portion in question, to the then present value of the rents payable hereunder with respect to the portion in question, to the then present value of the municipal taxes being received by the Lessor in its capacity as a municipal corporation with respect to the portion in question immediately prior to such destruction or damage and to the Lessor's right to the portion in question at the end of the term had such destruction or damage not occurred. In default of agreement the division of such moneys shall be determined by arbitration in accordance with the provisions of Article XVII. In addition to the foregoing the Lessor shall also be entitled to receive rent with respect to the portion in question for a period of three years after the date of the destruction or damage, which payment shall not be taken into account in making the foregoing determination.

In the event that such destruction or damage is of a major component of the Improvements as aforesaid, the rent payable under this lease shall be adjusted by the parties and failing agreement thereon by arbitration in accordance with Article XVII.

Section 6.06: Mechanics' Liens

The Lessee shall throughout the said term at its own cost and expense cause any and all mechanics' liens and other liens for labour, services or materials alleged to have been furnished or to have been charged by or for the Lessee or any one on its behalf at the demised premises or the Improvements, which may be registered against or otherwise affect the demised premises or the Improvements, to be paid, satisfied, released, cancelled and vacated within 30 days after the Lessor shall send to the Lessee written notice by registered mail of any claim for any such lien. Provided, however, that in the event

of a bona fide dispute by the Lessee of the validity or correctness of any claim for any such lien the Lessee shall not be bound by the foregoing but shall be entitled to defend against the same in any proceedings brought in respect thereof after first paying into court the amount claimed and such costs as the court may direct and registering all such documents as may be necessary to discharge such lien, or providing such other security in respect of such claim as will result in the discharge of such lien, provided always that neither the demised premises nor the Improvements thereon shall thereby become liable to forfeiture or sale. The Lessor may, but shall not be obliged to, after expiration of thirty days after the Lessee has received notice as aforesaid, discharge any lien filed or registered if in the Lessor's judgment, the demised premises or the Improvements or any part thereof or the Lessee's interest therein becomes liable to any forfeiture or sale or is otherwise in jeopardy and any amount paid by the Lessor in so doing, together with all reasonable costs and expenses of the Lessor shall be reimbursed to the Lessor by the Lessee on demand together with interest at the rate set out in Section 3.09 hereof from the date incurred until paid and may be recovered as rent in arrears. Nothing herein contained shall authorize the Lessee, or imply any consent or agreement on the part of the Lessor, to subject the Lessor's estate and interest in the demised premises and Improvements to any lien.

Section 6.07: Compliance with Governmental and other Regulations

The Lessee covenants that it will comply with all provisions of law including, without limitation, federal and provincial legislative enactments, municipal zoning and building by-laws and any other government or municipal regulations which relate to the demised premises or the Improvements or to the operation and use of the Improvements and the making of any repairs, replacements, alterations, additions, changes, substitutions, or improvements of or to the Improvements or any part thereof.

The Lessee covenants to comply with all police, fire and sanitary regulations imposed by any federal, provincial or municipal authorities or made by fire insurance underwriters, and to observe and obey all governmental and municipal laws, by-laws, regulations and other lawful requirements governing the conduct of any business conducted on the demised premises or in the Improvements.

Section 6.08: Maintenance and Repair of Common Areas

The Lessee agrees to pay such proportion as may be agreed to by the Lessor and the Lessee of expenses relating to repairing, cleaning, maintaining and reconstructing any Improvements, areas or services, external to the demised premises but contained within the area bounded on the north by the south limit of Merrick Street, on the east by the west limit of James Street North, on the south by the north limit of King Street West and on the west by the east limit of Bay Street North, the use of which is common to the demised premises and any abutting property. Notwithstanding the foregoing, should the Lessee with the Lessor's consent construct sidewalks or other improvements (with the exception of overpasses) external to the area bounded as aforesaid, the Lessee shall pay all expenses relating to the repairing, cleaning, maintaining and reconstructing any such sidewalks or other improvements.

Section 6.09: Signs

The Lessee agrees not to exhibit on the demised premises or the Improvements any sign or signs not approved by the Lessor, such signs to be integrated with the overall design of the Urban Renewal Area and to be restricted to non-flashing signs identifying the establishment and the nature of its business, the design, placing and number of such signs to be subject to the approval of the Lessor. Any approval required under this Section 6.09 shall not be unreasonably withheld.

Section 6.10: Non-Discrimination

The Lessee agrees that it will not discriminate in its employment practices at any time during the period of this lease or in the use of leasing or occupancy of any portion of the demised premises or the Improvements by reason of race, colour, religion or national origin.

Section 6.11: Workmen's Compensation

At all times during the said term, the Lessee shall at its own expense procure and carry or cause to be procured and carried and paid for full Workmen's Compensation coverage in respect of all workmen, employees, servants and others engaged, by or on behalf of the Lessee in or upon any work, non-payment of which could create a lien on the demised premises or the Improvements.

ARTICLE VII

EXPROPRIATION

Section 7.01: Rights on Expropriation

In the event of the expropriation of the whole or any part of the demised premises or the Improvements or any interest therein, the Lessee shall not be entitled to any compensation by reason of the fact that the basic rent may then be lower than the current ground rent value at the date of the expropriation, provided that this shall not preclude the entitlement of the Lessee to compensation for the Improvements. In the event of the expropriation of a portion of the demised premises or the Improvements, this lease shall not terminate but rent reserved hereunder will abate to the extent that such expropriation has reduced the value to the Lessee of the demised premises or the Improvements remaining. In default of agreement as to any such abatement it shall be settled by arbitration as provided for in Article XVII. If as a result of any partial expropriation of the demised premises or the Improvements it becomes necessary

to reconstruct or alter so much of the Improvements as remain unexpropriated in order that the remaining portions thereof may be used and operated practicably and economically, without limiting its rights to expropriation compensation as aforesaid, the Lessee shall at its own expense perform all work necessary to reconstruct such remaining portions practicably and economically and the provisions of Section 6.04 herein shall apply to such work. The Lessor and Lessee shall inform each other fully of the claims for compensation made by each of them in the event of any expropriation and shall not claim compensation on any basis inconsistent with this lease, and shall afford reasonable cooperation to each other in the prosecution of any proper separate claims. Any compensation to the Lessee for Improvements shall reflect the interest of the Lessor therein at the end of the term.

ARTICLE VIII

INSPECTION

Section 8.01: Inspection and Exhibition by Lessor

The Lessor, its architects, agents and employees shall have the right to enter on the demised premises and the Improvements at any reasonable time for the purpose of inspection and ascertaining the condition or state of repair thereof or verifying that the provisions of this lease are being complied with and the Lessee covenants upon reasonable notice to permit access for these purposes. The Lessor shall be entitled to exhibit the Improvements at any time during usual business hours to actual or prospective purchasers, mortgagees or encumbrancers of the Lessor's interest and estate, and the Lessee shall upon reasonable notice permit access for this purpose. During the final year of the term the Lessor may show prospective tenants or purchasers through the Improvements and demised premises during usual business hours and shall be entitled to display upon the Improvements and the demised premises signs advertising the demised premises

and Improvements as being available for purchase or lease provided such signs are displayed in such a manner as not to interfere unreasonably with the conduct of the Lessee's business.

ARTICLE IX

UNAVOIDABLE DELAYS

Section 9.01: Force Majeure

If by reason of strike, lockout, war, rebellion, material or labour shortage due to national emergency, fire, flood, wind, water or other casualty or by any other matter not within its control and not caused by its default or act of commission or omission and not avoidable by reasonable effort or foresight, the Lessee is in good faith and without default or neglect on its part prevented or delayed in the completion of any repair of the Improvements which under the terms of this lease it is required to do by a specified date or within a specified period of time, the date or period of time within which the work was to have been completed may be extended on certificate of the architect in charge of the same by a period of time equal to that of such delay or prevention, and the Lessee shall not be deemed to be in default if it performs and completes the work in the manner required by the terms of this lease within such extended period of time or within such further extended period as may be agreed upon from time to time between the Lessor and the Lessee.

ARTICLE X

INDEMNITY

Section 10.01: Exemption of Lessor from Liability
and Indemnity by Lessee

The Lessor shall not be liable or responsible in any way for personal or consequential injury of any kind whatsoever that may be suffered or sustained by the Lessee or any tenant, employee, agent or invitee of the Lessee or any other persons

who may be upon the demised premises or the Improvements or for any loss, theft, damage or injury to any property upon the demised premises or Improvements however caused. The Lessee shall indemnify the Lessor against all claims by any person arising from the operation of the Improvements or any defect or want of repair therein or any want of maintenance thereof or anything done or omitted to be done on the demised premises or the Improvements (including any adjoining sidewalks) or any other thing whatsoever related thereto (except for any claim arising from the negligence of an officer, employee or servant of the Lessor while acting within the scope of his duties or employment) whether arising from any breach or default or from any negligence by the Lessee, its tenants, agents, contractors, employees, invitees or licensees or from any accident, injury or damage or any other cause whatsoever related thereto; and such indemnity shall extend to all costs, legal fees, expenses and liabilities which the Lessor may incur with respect to any such claim.

ARTICLE XI

ASSIGNMENT BY LESSOR

Section 11.01: Right of Lessor to Assign or Encumber

Nothing contained in this lease shall prohibit or restrict the Lessor or shall imply any such prohibition or restriction from assigning, syndicating, mortgaging, encumbrancing or otherwise dealing with its reversionary interest in the demised premises and the Improvements, but subject always to this lease and all the rights of the Lessee hereunder. The Lessee shall promptly, whenever from time to time requested by the Lessor, execute an acknowledgement or certificate in favour of any actual or prospective purchaser, mortgagee, encumbrancer of the Lessor's interest, acknowledging or certifying as to the status of this lease, as to any modifications thereof, as to any breaches of covenant known to the Lessee and as to the state of the rent account, with the intent that any such acknowledgement or certificate may be relied upon by the person to whom it is addressed.

ARTICLE XII

SUBLETTING AND ASSIGNING

Section 12.01: Lessee's Rights of Subletting and Assigning

- (a) The Lessee and its sublessees and assignees shall have the right at any time and from time to time to sublease or assign any part or parts of the individual Improvements without the consent of the Lessor. Provided that, without the leave of the Lessor, which leave shall not be unreasonably withheld, there shall be no such sublease or assignment to any person, firm or corporation which has an interest in the Lessee or the Guarantor directly or indirectly, as partner, shareholder, guarantor, or a substantial debtor or a substantial creditor, or in which the Lessee or the Guarantor has an interest, directly or indirectly as partner, shareholder, guarantor, a substantial debtor or a substantial creditor. Notwithstanding the foregoing, except as provided in Article XVI hereof, neither the Lessee nor any sublessee or assignee shall assign, sublet, or otherwise deal with its interest in the demised premises or the Improvements, by any transaction the effect of which would be to divest the party making such transaction of all or substantially all of its interest in the demised premises and Improvements, without the leave of the Lessor which leave may be arbitrarily withheld notwithstanding any law or statute now or in the future to the contrary. The Lessee further agrees that the aggregate gross rentals under such subleases shall at all times be sufficient to enable it to meet its mortgage commitments and all obligations under this lease, including payment of taxes. No such sublease shall be for a term (taking into account any renewals or extensions) which shall extend beyond the expiration of the term of this lease. The Lessor shall recognize, accept, be bound by and subject and entitled to all the obligations and benefits of all subleases

or assignments (other than any sublease or assignment for which the Lessor's consent required hereunder shall have been withheld pursuant to the provisions of this section 12.01(a)) existing at the termination of this lease for any reason except for a termination by effluxion of time or pursuant to Section 3.11 or Section 6.05 hereof. No sublease or assignment shall release or impair the continuing obligations of the Lessee hereunder.

- (b) The Lessee shall not without prior written concurrence of the Lessor accept rent from any of its tenants for longer in advance than six months. Any sublease, sublease of sublease or assignment permitted hereunder shall provide for termination in the event of termination of this lease under the provisions of Section 3.11 or Section 6.05 hereof.

ARTICLE XIII

BANKRUPTCY

Section 13.01: Bankruptcy of the Lessee

If the term hereby granted shall at any time be seized or taken in execution by any creditor of the Lessee or if the Lessee shall make a general assignment for the benefit of creditors, or if it shall institute proceedings to subject itself to the Winding-Up Act or to be adjudicated a bankrupt or insolvent or shall consent to the institution of bankruptcy or insolvency proceedings against it or shall file an application or petition or answer or consent seeking re-organization or readjustment of its indebtedness under the Bankruptcy Act or the Companies' Creditors Arrangement Act or any law of Canada or any province thereof relating to bankruptcy or insolvency or shall consent to the filing of any such application or petition or shall consent to the appointment of a receiver or if the Lessee or its directors shall pass any resolution authorizing the dissolution or the winding up of the company or if a receiver, interim receiver, trustee or liquidator of all or substantially all of its property shall be appointed or applied for by it, or if a judgement, decree, or order shall be entered by a court of competent jurisdiction

adjudging it a bankrupt or insolvent or subject to the provisions of the Winding-up Act or the Bankruptcy Act or determining that proceedings for re-organization, arrangement, adjustment, composition, liquidation, dissolution or winding up or any similar relief under the Bankruptcy Act or the Companies' Creditors Arrangement Act or any law of Canada or any province thereof relating to bankruptcy or insolvency have been properly instituted otherwise than by the Lessee, and any such appointment, judgement, decree, order or process remains unstayed or undischarged for a period of 30 days, then subject to Section 15.03 hereof the rent for the three months next ensuing after the then current month shall immediately become due and payable and the lease shall at the option of the Lessor immediately become terminated.

ARTICLE XIV

CHANGES IN DEMISED PREMISES

Section 14.01: Additions to and Deletions from the Area of the Demised Premises

The Lessor and the Lessee agree that from time to time as may be considered by them to be necessary or desirable for the purpose of the construction and erection or use or operation of the Improvements or for other purposes approved by the Lessor and the Lessee, the Lessor may lease to the Lessee and the Lessee may take and rent from the Lessor, any additional amount or interest in land or easement or right in the nature of an easement and that in such event the Lessor and the Lessee will execute a supplemental lease therefor for the balance of the term hereof and upon and subject to such conditions as may then be agreed upon and otherwise subject to the conditions of this lease and amending Schedule A hereto, by adding thereto any such additional land or interest in land or easement or other right, and any such supplemental lease shall form a part of this lease and be read together with this lease. The Lessor and the Lessee agree that from time to time, as any land or interest in land or easement or right in the nature of an easement may be agreed by both of them to

be unnecessary for the purposes of the construction and erection or use or operation of the Improvements, the Lessor and the Lessee will execute a partial surrender of this lease excepting such land or interest in land or easement or other right from the provisions of this lease and amending Schedule A hereto by deleting therefrom any such land or interest in land or easement or other right; and any such partial surrender of lease shall form a part of this lease and be read together with this lease.

ARTICLE XV

DEFAULT

Section 15.01: Right of Re-entry

- (a) If the Lessee shall fail or neglect to perform or comply with any of the terms, covenants or conditions contained in this lease (other than the covenants to pay rent or taxes) on the part of the Lessee to be performed or observed, the Lessor shall notify the Lessee, the Guarantor and any mortgagee who has filed the notice referred to in Section 15.03(a) hereof in writing accordingly. Such notice and the notice referred to in Section 15.01(b) hereof shall not be a valid notice for purposes of the lease unless it is also given to any such mortgagee. Such notice having been given, the Lessee shall
- (i) forthwith after receipt of such notice commence to remedy the breach complained of in such notice and prosecute the same to completion with reasonable diligence and in any event within 60 days after the giving of such notice; or
 - (ii) if more than such 60 days are reasonably required to remedy, with reasonable diligence, the breach complained of in such notice, forthwith after receipt of such notice commence to remedy the same and prosecute the same to completion with reasonable diligence; or
 - (iii) notify the Lessor within 15 days after the giving of such notice by the Lessor that the Lessee disputes the matters contained in the aforesaid notice given

by the Lessor, in which case unless otherwise agreed such issues shall be determined by arbitration as herein provided; if such determination be adverse to the Lessee, wholly or in part, the Lessee shall forthwith commence to correct the matters complained of by the Lessor, or that portion thereof as to which such determination shall have been adverse to the Lessee, and complete the same within 60 days after such determination or, if more than such 60 days are reasonably required to complete such correction, commence to correct the same within such 60 days and prosecute the same to completion with reasonable diligence; and if so requested by either party, the arbitrator shall as part of his determination under this item (iii) establish a time reasonably required for such completion, and if such time be established, the same shall be completed within such time, except that such time shall be extended to the extent that the parties hereto may agree in writing; provided that, if in the opinion of the Lessor there would be danger that the demised premises or the Improvements would be materially injured or that the Lessor's interest in the demised premises or the Improvements or under this lease would be materially impaired or endangered by reason of delay in curing the alleged default whether the matter has been submitted to arbitration or otherwise, the Lessor may cure the default, and, if the determination by arbitration is adverse to the Lessee, all reasonable expenses incurred by the Lessor in curing the default shall be a sum of money which sum together with interest thereon from the date such expenses are paid at the rate provided for in Section 3.09 hereof shall be rent, and shall be paid by the Lessee to the Lessor within 7 clear days after the Lessor shall make demand for payment thereof by the Lessee, and such curing of the default by the Lessor shall, subject to Section 15.02, not constitute a waiver of the default or affect

any of the Lessor's rights or remedies with respect thereto. If any such default or neglect is not cured as aforesaid the Lessor or the Lessor's agents or employees authorized by it at its option may terminate this lease and may immediately or at any time thereafter re-enter the demised premises and Improvements with or without process of law and take possession thereof, subject to and with the benefits of all existing subleases of the demised premises and Improvements, and subject as aforesaid, the Improvements shall be forfeited to and become the property of the Lessor as liquidated damages without compensation therefor to either the Lessee or the Mortgagee. Such re-entry and repossession shall not work a forfeiture or waiver of the rents to be paid and the covenants to be performed by the Lessee up to the date of such re-entry and repossession.

- (b) If the rent, taxes, or any other sums required to be paid to the Lessor by any provision of this lease shall not be paid on any day when such payment is due, the Lessor shall forward notice in writing of such failure to the Lessee, the Guarantor and any mortgagee of whom the Lessor has notice and if the failure, notice of which has been given, is not cured within 30 days after the date of receipt of such notice, the Lessor may, at the end of the said period of 30 days, give to the Lessee, Guarantor and any such mortgagee a notice of intention to end the term, specifying a day not less than 30 days nor more than 60 days thereafter whereupon if the default or neglect is not cured, or if this lease shall expire or be forfeited or be terminated by any other provision in it contained, the Lessor or the Lessor's agents or employees authorized by it may, subject to Section 15.03, at its option terminate this lease and may immediately or at any time thereafter re-enter the demised premises and Improvements with or without process of law and take possession thereof, subject to and with the benefits of all existing subleases of the demised premises and Improvements, and subject as aforesaid, the

Improvements shall be forfeited to and become the property of the Lessor as liquidated damages without compensation therefor to either the Lessee or the Mortgagee.

Section 15.02: Lessor's Right to Cure Defaults

The Lessor shall have the right at all times to enter the demised premises and Improvements for the purpose of curing any default of the Lessee, and no such entry for such purpose shall be deemed to work a forfeiture or termination of this lease unless the Lessor otherwise expressly elects in writing, and the Lessee shall permit such entry. The Lessor shall give not less than seven days' notice in writing to the Lessee of its intention to enter for such purpose but may enter upon a shorter period of notice or without notice where in the Lessor's reasonable judgment there is real or apprehended emergency or danger to persons or property, or where any delay in remedying such default would or might materially prejudice the Lessor.

The Lessee shall reimburse the Lessor upon demand for all expenses incurred by the Lessee in remedying any default, together with interest thereon at the rate provided for in Section 3.09 hereof from the date incurred until paid. The Lessor shall be under no obligation to remedy any default of the Lessee and shall not incur any liability to the Lessee for any act or omission in the course of its remedying or attempting to remedy any such default unless such act amounts to negligence of the Lessor.

Section 15.03: Notice To and Remedies of Mortgagees

(a). Any mortgagee may file with the Lessor written notice of its mortgage specifying therein an address for any notices to be given by the Lessor to the mortgagee and thereafter no re-entry, forfeiture or termination of this lease by the Lessor shall be valid as against such mortgagee unless the Lessor shall first have given the mortgagee notice of the default or contingency entitling the Lessor to re-enter, terminate or forfeit this lease and of the Lessor's intention to take such proceedings, and requiring the mortgagee

to cure the default. The mortgagee shall thereafter have such time as may be reasonably necessary to cure the default and which shall include the time otherwise permitted to the Lessee to cure such default as well as, if requested by the mortgagee, such time as may be required by the mortgagee to realize on its security under such mortgage and which in any event shall not be less than 3 months, and the mortgagee shall be permitted access to the demised premises and Improvements for that purpose. If the default is cured within such time, the mortgagee shall be entitled to continue as Lessee for the balance of the term remaining at the date of notice of default, provided that it attorns as Lessee to the Lessor and undertakes to be bound by and to perform the covenants under this lease;

- (b) If this lease shall be subject to termination or forfeiture pursuant to Section 13.01 the Lessee's default shall be deemed to have been sufficiently cured if the mortgagee shall, as against the Lessee, take possession and control of the demised premises and Improvements, assume the lease and covenant with the Lessor to perform all the obligations of the Lessee thereunder and cure any default by the Lessee within the period specified;
- (c) Any re-entry, termination or forfeiture of this lease made in accordance with the provisions of this lease as against the Lessee shall be valid and effectual against the Lessee even though made subject to the right of any mortgagee of the Lessee's interest to cure any default of the Lessee and continue as Lessee under this lease.

ARTICLE XVI

FIRST MORTGAGE

Section 16.01: Additional Restrictions Respecting Mortgaging and Encumbrancing by the Lessee

The Lessee may at any time and from time to time mortgage or encumber its interest in the demised premises, the Improvements

and this lease by a mortgage by way of assignment, sublease or otherwise and any mortgagee or assignee of a mortgagee may, whether such mortgaged interest was derived through the mortgagee following the realization by the mortgagee of the security of the mortgage or by the exercise of the power of sale in the mortgage or otherwise, by assignment, sublease or otherwise sell or transfer such mortgaged interest and so on from time to time, provided the following conditions have been complied with:

- (a) The mortgagee or encumbrancer shall covenant with the Lessor to be bound by all the covenants and obligations of the Lessee hereunder as soon as such mortgagee or encumbrancer enters into possession of the Lessee's interest, or otherwise takes steps to enforce its security which have the effect of depriving the Lessee of the ability fully to perform those covenants and obligations, and upon the sale or transfer of the mortgaged interest following the realization by the mortgagee of the security of the mortgage or by the exercise of the power of sale in the mortgage or otherwise, the assignee of the mortgaged interest shall covenant with the Lessor to perform all the Lessee's obligations under this lease but so soon as the assignee becomes bound by the Lessee's obligations, the mortgagee or encumbrancer shall be relieved from its covenant;
- (b) Every mortgage or encumbrance of the Improvements shall be made expressly subject to the rights of the Lessor under this lease, and in particular to the right of the Lessor to acquire title thereto upon expiration or termination of this lease, in accordance with the provisions of this lease;
- (c) The mortgage or encumbrance upon the Lessee's leasehold interest and the demised premises and the Improvements shall not include any property except the Lessee's interest in this lease, subleases hereunder, the demised premises and the Improvements and fixtures, and chattels of the Lessee situate thereon;

- (d) The mortgage shall be a first mortgage, the only second mortgage permitted hereunder being the second mortgage to the Lessor to secure arrears of ground rent as hereinafter provided;
- (e) The terms of the said mortgage and the amount thereof shall be subject to the reasonable approval of the Lessor.

Section 16.02: Postponement

The Lessee shall use its best efforts and exercise all due diligence to arrange its initial first mortgage financing without any postponement respecting any of the rent payable under this lease. It is agreed however that if the Lessee cannot arrange its initial first mortgage financing upon practical and business-like terms without such a postponement then a postponement of the rent payable hereunder except the first \$1,000 per annum shall be granted by the Lessor upon the request in writing of the Lessee provided that:

- (a) Such first mortgage financing shall be with one or more recognized financial institutions, authorized to make mortgage loans in the Province of Ontario and the interest rate shall not exceed the then current interest rate for mortgage loans on premises similar to the demised premises;
- (b) Such postponed rent shall not include the first \$1,000 per annum payable hereunder and shall not include any taxes or other payments payable as additional rent under this lease;
- (c) Such mortgage shall provide for equal monthly or quarterly instalments to amortize the loan over a period of not more than 45 years and not less than 35 years and shall not contain any power of sale except upon at least thirty days' notice in writing to the Lessor;
- (d) Such postponement shall only relate to the payments referred to in clause (c) above and shall not relate to any amount of principal or interest accelerated by default;
- (e) The mortgagee shall have entered into an agreement satisfactory in form and substance to the Lessor whereunder it shall agree with the Lessor that if such postponement shall occur

any moneys received by the mortgagee shall be received by it as if it were a mortgagee of a freehold in possession under the laws of the Province of Ontario and the mortgagee accordingly agrees so to account to the Lessor and pay to it all moneys to which the Lessor is entitled on such basis. The mortgagee shall further agree periodically, at the request of the Lessor, to report to the Lessor on the standing of the mortgage and to give sixty days written notice to the Lessor should it intend to avail itself of its right to postpone;

- (f) Such postponement shall only relate to the initial first mortgage financing provided that the Lessor shall not be required to postpone its interest as aforesaid in favour of any mortgage which matures later than 45 years after the commencement of the term hereby demised;
- (g) Any arrears of such postponed ground rent shall bear interest at the first mortgage rate and shall be secured by a second mortgage payable on demand.

Section 16.03: Lessee to Comply with Lease,
Mortgage and other Obligations

The Lessee shall observe and perform all its covenants and obligations incurred in respect of assignments, subleases, agreement for tenancy, the first mortgage of the demised premises and Improvements, and shall not suffer or allow any such obligations to be in default, and if any such default shall occur, the Lessor may, but shall not be obliged to, rectify such default for the account of the Lessee, and any amount paid by the Lessor in so doing, together with all reasonable costs and expenses of the Lessor, shall be reimbursed to the Lessor by the Lessee on demand together with interest at the rate provided for in Section 3.09 hereof from the date incurred until paid, and may be recovered as if it were rent in arrears.

ARTICLE XVII

ARBITRATION

Section 17.01:

If the Lessor and the Lessee do not agree as to any of the matters which are by the provisions hereof to be determined by arbitration, any such disagreement shall be decided by a single arbitrator pursuant to the provisions of The Arbitrations Act, Revised Statutes of Ontario, 1960, Chapter 18, and amendments thereto or any re-enactment thereof and amendments thereto.

ARTICLE XVIII

TITLE

Section 18.01: Acceptance of Title

The Lessee acknowledges that it has examined title to the demised premises and is satisfied therewith and waives any objections to title in connection therewith.

ARTICLE XIX

GUARANTEE

Section 19.01: Guarantee of Lessee's Obligations

For valuable consideration the Guarantor hereby upon the terms and conditions herein set forth, unconditionally guarantees and agrees with the Lessor that all the covenants, agreements and other obligations of the Lessee under this lease shall be fully performed; and provided that and notwithstanding anything herein contained to the contrary, the parties hereto agree each with the others that so soon as the guarantee of the Guarantor as described in Section 5.11 of the Development Agreement shall, by virtue of the fulfilment of the conditions set forth in said Section 5.11 of the Development Agreement, be unconditionally cancelled and of no further force and effect and void, the guarantee of the Guarantor hereunder and hereinabove immediately described

shall likewise thereupon be and become immediately unconditionally cancelled, of no further force and effect and void, and the City shall furnish the Guarantor with a release therefrom. / Such guarantee shall be on the following terms:

- (a) The liability of the Guarantor to the Lessor shall be for all purposes as if the Guarantor was a primary obligor hereunder and not merely a surety for the obligations of the Lessee, and the Lessor shall not be obliged to exhaust any recourse which it may have against the Lessee or any other person before being entitled to claim against the Guarantor;
- (b) No dealings between the Lessor and the Lessee of whatever kind, whether with or without notice to the Guarantor shall exonerate the Guarantor in whole or in part and in particular and without limiting the generality of the foregoing, the Lessor may modify or amend this lease or any obligation of the Lessee, take securities, release securities or other guarantees for performance by the Lessee and otherwise deal with the Lessee, this lease and any other persons the Lessor may see fit without affecting, lessening or limiting in any way the liability of the Guarantor;
- (c) Any account settled or stated, or any other settlement made between the Lessor and the Lessee and any determination made pursuant to any provision of this lease which is expressed to be binding upon the Lessee shall be binding upon the Guarantor;
- (d) The Guarantor shall make payment to the Lessor of any amount payable hereunder by the Lessee to the Lessor but unpaid upon demand, and shall on demand perform any other obligations under this lease which the Lessee has failed to perform and any demand made by the Lessor upon the Guarantor shall be deemed to have been effectually made if notice has been sent pursuant to the provisions of Article XXII hereof;
- (e) No assignment of this lease unless agreed to by the Lessor under the terms of this lease shall affect the guarantee.

ARTICLE XX

SURRENDER OF DEMISED PREMISES AND THE IMPROVEMENTS

Section 20.01: Surrender

At the end of the term hereby granted, either by forfeiture, default or lapse of time, the Lessee shall surrender the demised premises and the Improvements to the Lessor in the condition in which they are required to be kept by the Lessee under the provisions of this lease, except as herein otherwise expressly provided.

ARTICLE XXI

OVERHOLDING

Section 21.01: Overholding

It is agreed that if upon the determination of this lease by passage of time, the Lessor permits the Lessee to remain in possession of the demised premises and the Improvements and accepts rent in respect thereof, a tenancy from year to year or otherwise shall not be created by implication of law, and the Lessee shall be deemed to be a monthly tenant only at the then current rent.

ARTICLE XXII

NOTICE

Section 22.01:

Any notice in writing required or permitted to be given to the Lessee hereunder shall be sufficiently given if delivered to an officer of the Lessee personally or mailed by registered mail, postage prepaid, addressed to First Phase Civic Square, Limited, Fourth Floor, 39 James Street South, Hamilton 10, Ontario. Any such notice mailed as aforesaid shall be deemed to be given to the Lessee on the second business day following the date of such mailing.

Any notice in writing required or permitted to be given to the Guarantor hereunder shall be sufficiently given if delivered

to an officer of the Guarantor personally or mailed by registered mail, postage prepaid, addressed to Yale Properties Limited, 2015 Peel Street, Montreal 110, Quebec, Canada. Any such notice mailed as aforesaid shall be deemed to be given to the Guarantor on the second business day following the date of such mailing.

Any notice in writing required or permitted to be given to the Lessor shall be sufficiently given if delivered to the City Clerk personally or mailed by registered mail, postage prepaid, addressed to the Lessor, care of City Clerk, The Corporation of the City of Hamilton, City Hall, Hamilton, Ontario. Any such notice mailed as aforesaid shall be deemed to have been given to the Lessor on the second business day following the date of such mailing.

Any party may at any time give notice to the other parties of any change of address of the party giving such notice and from and after the giving of such notice the address therein specified shall be deemed to be the address of such party.

ARTICLE XXIII - MISCELLANEOUS

Section 23.01: Remedies to be Cumulative

It is expressly understood and agreed that the remedies of the Lessor under this lease are cumulative and the exercise by the Lessor of any right or remedy for the default or breach of any term, covenant, condition or agreement herein contained shall not be deemed to be a waiver of or to alter, affect, or prejudice any other right or remedy or other rights or remedies, to which the Lessor may be lawfully entitled for the same default or breach; and any waiver by the Lessor of the strict observance, performance or compliance by the Lessee of or with any term, covenant, condition or agreement herein contained, or any indulgence granted by the Lessor to the Lessee shall not be deemed to be a waiver of any subsequent default or breach by the Lessee, nor entitle the Lessee to any similar indulgence theretofore granted.

Section 23.02: Relationship of Parties

It is understood and agreed that the provisions contained in this lease shall not be deemed to create any relationship other than that of landlord and tenant as to the demised premises.

Section 23.03: Time of Essence

Time shall be of the essence of this lease, save as herein otherwise specified.

Section 23.04: Amendment

This lease may not be modified or amended except by an instrument in writing of equal formality herewith executed by the parties hereto or by their successors or assigns.

Section 23.05: Binding Effect

It is further agreed and declared that these presents shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective successors and assigns as limited in this lease.

Section 23.06: Counterparts

This lease may be executed in several counterparts each of which when executed by the parties shall be deemed to be an original and such counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF the parties have hereunto caused to be affixed their respective corporate seals attested by the

signatures of their respective proper officers duly authorized
for such purpose.

THE CORPORATION OF THE CITY OF HAMILTON

By _____
Mayor

City Clerk C.S.

FIRST PHASE CIVIC SQUARE LIMITED

By _____
President

Secretary C.S.

YALE PROPERTIES LIMITED

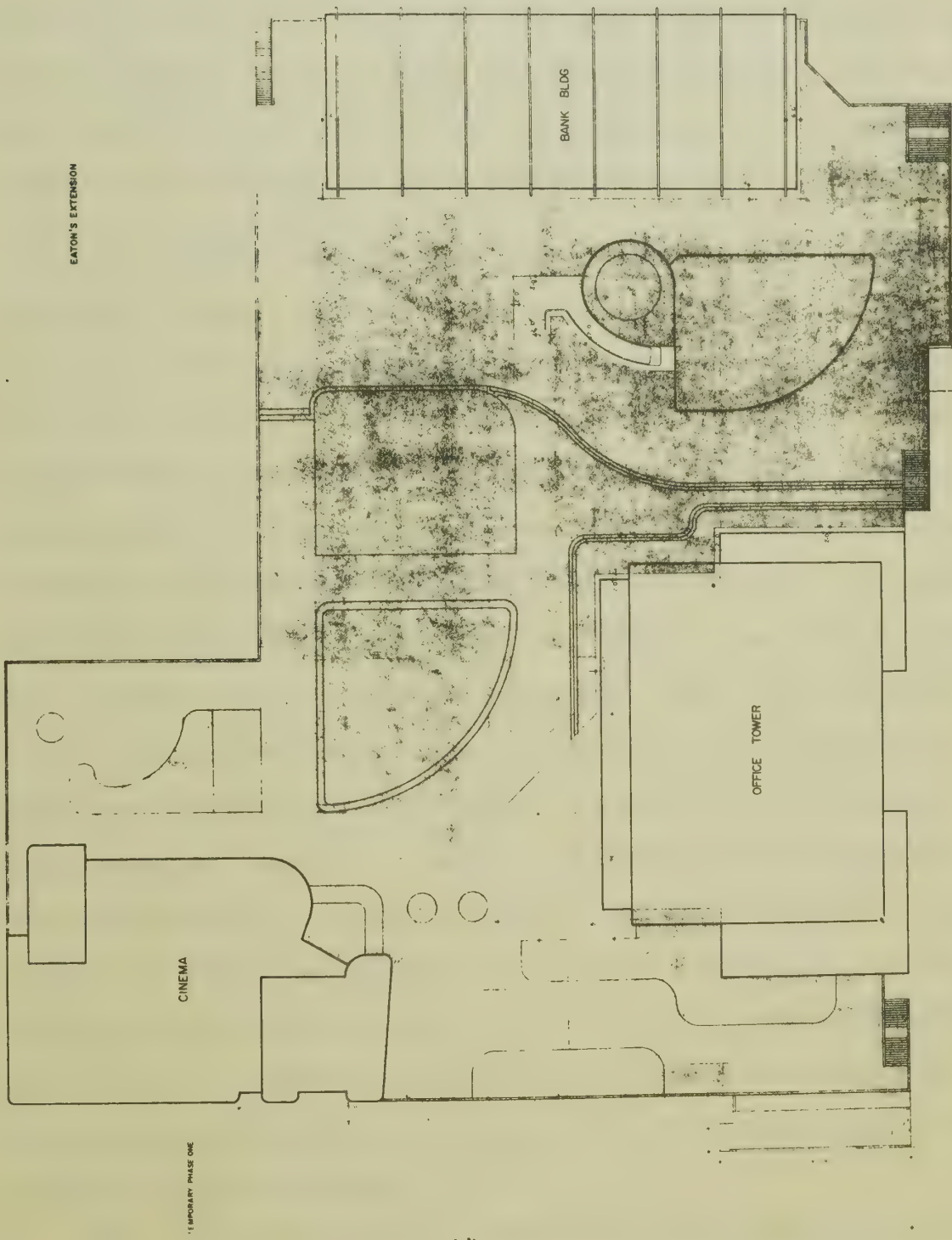
By _____ C.S.
President

SCHEDULE A

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying and being in the City of Hamilton, County of Wentworth, Province of Ontario and being composed of all of PART 1 according to a print of a plan of survey of record in the Office of the Director of Titles at Toronto as Plan CTA 744 in the block bounded by Market Square, (formerly York Street), James, King and MacNab Streets according to Andrew Miller's Survey (Seven Acre Tract) registered in the Registry Office for the Registry Division of Wentworth as Plan No. 50, save and except those portions of said PART 1 incorporated into the limits of James and King Streets by City of Hamilton By-laws No. 70-335 and No. 70-336 dated November 10, 1970 and registered in the said Registry Office as Instruments No. 187451 A.B. and No. 187452 A.B., part of Lots 1, 2 and 3 and all of Lots 4 to 8 inclusive, in F. Kenny Survey registered in the said Registry Office as Plan No. 56, part of Andrew Miller's Survey (Seven Acre Tract) registered Plan No. 50 in the block bounded by Market, MacNab, King and Park Streets, part of Andrew Miller's Survey (Seven Acre Tract) registered Plan No. 50 (sometimes known as an un-numbered lot in Sir Allan MacNab Survey un-registered) in the block bounded by York, MacNab, Market and Park Streets, part of Andrew Miller's Survey (Seven Acre Tract) registered Plan No. 50 in the block bounded by Merrick and James Streets, Market Square (formerly York Street), and MacNab Street and part of Market Square (formerly York Street) as shown on the said Andrew Miller's Survey (Seven Acre Tract) registered Plan No. 50 said part of Market Square (formerly York Street) now closed by City of Hamilton By-law No. 70-279 dated September 29th, 1970 and registered as Instrument No. 182921 A.B., parts of MacNab Street as shown on the said Andrew Miller's Survey (Seven Acre Tract) registered Plan No. 50 the said parts now closed by City of Hamilton By-laws No. 70-277 and No. 70-305 dated September 29th, 1970 and October 27th, 1970 respectively and registered as Instruments No. 182919 A.B. and No. 185464 A.B., part of Market Street as shown on the said Andrew Miller's

Survey (Seven Acre Tract) registered Plan No. 50 said part of Market Street now closed by City of Hamilton By-law No. 70-276 dated September 29th, 1970 and registered as Instrument No. 182918 A.B., and part of York Street between MacNab and Park Streets as shown on David Kirkendall's Survey registered in the said Registry Office as Plan No. 39, the said part of York Street now closed by City of Hamilton By-law No. 70-278 dated September 29th, 1970 and registered as Instrument No. 182920 A.B., all of the foregoing being more particularly described as Part 1, according to Reference Plan 62R-234 received and deposited in the said Registry Office.

SUBJECT to and together with the easements and other rights and obligations more particularly described in Schedule C.



OPEN SPACE PLAN
SCALE: 1" TO 16'-0"

SCHEDULE "B". PUBLICLY USABLE OPEN SPACE

SCHEDULE C

EASEMENTS

(a) MacNab Street Sewer

There is hereby reserved to the Lessor, its successors and assigns, a sub-surface easement and the right to use, operate, maintain, and replace in its present location the existing 72 inch diameter sewer, the location of which is shown on Plan No. 69-S-113 of the Department of Engineering of the Lessor, which drawing has been initialled by the Lessor and Lessee for the purpose of identification. The said sub-surface easement may be more particularly described as follows:

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Hamilton, County of Wentworth, Province of Ontario, and being composed of part of MacNab Street as shown on Andrew Miller's Survey registered in the Registry Office for the Registry Division of Wentworth as Plan No. 50 and on David Kirkendall's Survey registered in the said Registry Office as Plan No. 39, said part of MacNab Street now closed by City of Hamilton By-laws Nos. 70-277 and 70-305 dated September 29th, 1970 and October 27th, 1970 respectively, and registered in the said Registry Office as Instruments Nos. 182919 AB and 185464 AB respectively designated as Parts 3, 4 and 5 on a Reference Plan deposited in the said Registry Office as 62R-223, being all of those Parts 3, 4 and 5 lying below an inclined plane the southern extremity having an elevation of two hundred and ninety-seven point five feet (297.5') geodetic datum and the northern extremity having an elevation of two hundred and ninety-nine point five feet (299.5') geodetic datum.

The only encroachments permitted to the Lessee of the aforesaid sub-surface easement designated as Parts 3, 4 and 5 on the said Reference Plan 62R-223, shall be on Parts 3 and 5, lying below the aforesaid inclined plane and on Part 4 lying below a horizontal plane the southern and northern extremities having an elevation of two hundred and sixty point zero feet (260.0') geodetic datum.

The Lessee agrees at its expense to conform with the specifications, plans and manhole reconstruction requirements as set out on said Plan No. 69-S-113 and further agrees as follows:

1. The Improvements adjacent to the sewer shall not place any load bearing upon it and such Improvements shall be sufficiently removed from the sewer to permit the repair, replacement and maintenance of it. The Lessor shall have the right from time to time to examine the plans and specifications for such Improvements and shall regularly inspect the construction of such Improvements to ascertain that the foregoing provision is being complied with.
2. The maximum load which will be permitted to bear on the sewer easement shall be that imposed by a truck imposing a load designated as H-20-44 in the 10th edition dated 1969 of "Standard Specifications for Highway Bridges" as published by the American Association of State Highway Officials.
3. The Lessee shall be responsible for any damage caused to the sewer by its use and occupation of the demised premises and the Improvements.
4. The Lessor shall not be responsible for any settling or damage to the adjacent Improvements caused by the sewer or its repair, maintenance or replacement unless such settling or damage is occasioned by negligence or default on the part of the Lessor in connection with the sewer or its repair, maintenance or replacement.
5. Except for lateral storm and sanitary building drains, the number and location of which shall be as agreed upon by the Lessor and the Lessee, the Lessee shall provide unobstructed access to the Lessor to the sewer within the entire length, depth and width of that part of the hereinafter described vehicular access easement from the north limit of King Street West to the south limit of Merrick

Street. The minimum width of such access shall be twenty-two feet.

6. The Lessee shall provide a vertical clearance of at least fourteen feet six inches (14' 6") above the lowest floor level of the said vehicular access easement to the ceiling thereof for that portion of the said vehicular access easement lying between the north limit of King Street West and the south limit of Merrick Street.

7. The Lessee shall provide special manhole covers, satisfactory to the City Engineer of the Lessor, on the manholes to prevent odours from escaping.

8. The Lessee shall provide a ventilation system, satisfactory to the City Engineer of the Lessor, from the sewer to the atmosphere.

9. Neither of the Lessor nor the Lessee shall be responsible for any damage that is caused by the discharge of materials into the sewer such as gasoline or other materials which may cause explosions unless such damage is occasioned by its negligence.

10. The Lessor shall not be responsible for damages resulting from an interruption to vehicular traffic on the said vehicular access easement occasioned by any repair, maintenance or replacement work required for the sewer provided such work is carried out expeditiously.

11. The Lessor shall have the right to excavate from the finished floor of the said vehicular access easement to whatever depth is necessary to effect the repair, maintenance or replacement of the said sewer and after effecting any such repair, maintenance or replacement of the sewer, the Lessor shall be obliged to restore at its expense the finished floor in that portion of the said vehicular access easement lying within the demised premises but shall not be obliged to restore the surface of that portion of the said vehicular access

easement lying between the north limit of the demised premises and the south limit of Merrick Street, but shall be obliged to place suitable granular fill to enable the Lessee to restore it.

12. The Lessee shall, during the process of any repair, maintenance or replacement of the sewer, make available to the Lessor, free of charge such space at the basement level of the Improvements as may be reasonably required by the Lessor for the storage of equipment and sheds necessary for such repair, maintenance or replacement.

(b) Vehicular Access Easement

There is hereby reserved to the Lessor and hereby granted to the Lessee, and the right is hereby reserved to the Lessor to grant to the Lessee of Part Two as described in the Development Agreement, to the developer of the lands lying to the south of the south limit of King Street West, to the north of the existing store of The G. W. Robinson Company, Limited, to the east of the east limit of MacNab Street South and to the west of the west limit of James Street South and, at the option of the Lessor, to The G. W. Robinson Company, Limited an easement for vehicular access over along and upon all and singular those certain parcels or tracts of land and premises, situate, lying and being in the City of Hamilton, County of Wentworth, Province of Ontario and being composed of:-
Firstly:-

Part of Lot 40 P.H. Hamilton Survey designated as Part 15 on the said Reference Plan 62R-223.

Secondly:-

Part of Lots 20, 23 and 40 P.H. Hamilton Survey designated as Part 1 on the said Reference Plan 62R-223 being all of Part 1 lying between two inclined planes, the upper plane having elevations of three hundred and thirty-eight point two five feet (338.25') geodetic datum and three hundred and twenty-two point seven five feet (322.75') geodetic datum at its southern and northern extremities respectively, and the lower plane having elevations of three hundred and

twenty-three point seven five feet (323.75') geodetic datum and three hundred and three point zero feet (303.0') geodetic datum at its southern and northern extremities respectively.

Thirdly:-

Part of Lots 5 and 20 P.H. Hamilton Survey and part of King Street lying between the northern limit of the said Lot 5 and the northern limit of King Street as widened by City of Hamilton By-law No. 70-336 dated November 10, 1970 and registered as Instrument No. 187452 A.B. designated as Part 2 on the said Reference Plan 62R-223 being all of the said Part 2 lying between two inclined planes, the upper plane having elevations of three hundred and twenty-two point seven five feet (322.75') geodetic datum and three hundred and seventeen point five zero feet (317.50') geodetic datum at its southern and northern extremities respectively and the lower plane having elevations of three hundred and three point zero feet (303.0') geodetic datum and two hundred and ninety-seven point five zero feet (297.50') geodetic datum at its southern and northern extremities respectively.

Fourthly:-

Part of MacNab Street as shown on Andrew Miller's Survey registered in the Registry Office for the Registry Division of Wentworth as Plan No. 50 and on David Kirkendall's Survey registered in the said Registry Office as Plan No. 39, said MacNab Street now closed by City of Hamilton By-laws Nos. 70-277 and 70-305 dated September 29th, 1970, and October 27th, 1970, respectively and registered in the said Registry Office as Instruments Nos. 182919 AB and 185464 AB respectively, designated as Parts 3, 4 and 5 on the said Reference Plan 62R-223 being all of the said Parts 3, 4 and 5 lying between an upper horizontal plane having an elevation of three hundred and seventeen point five zero feet (317.50') geodetic datum at its southern and northern extremities respectively and a lower inclined plane having elevations of two hundred and ninety-seven point five zero feet (297.50') geodetic datum and two hundred and ninety-nine point five zero feet (299.50')

geodetic datum at its southern and northern extremities respectively.

Fifthly:-

Part of MacNab Street as shown on Andrew Miller's Survey registered in the said Registry Office as Plan No. 50 and on David Kirkendall's Survey registered in the said Registry Office as Plan No. 39, said MacNab Street now closed by City of Hamilton By-law No. 70-277 dated September 29th, 1970 and registered as Instrument No. 182919 AB designated as Parts 6, 7 and 8 on the said Reference Plan 62R-223 being all of the said Parts 6, 7 and 8 lying between two inclined planes, the upper plane having elevations of three hundred and seventeen point five zero feet (317.50') geodetic datum and three hundred and twenty-two point zero feet (322.0') geodetic datum at its southern and northern extremities respectively and the lower plane having elevations of two hundred and ninety-nine point five zero feet (299.50') geodetic datum and three hundred and one point five zero feet (301.50') geodetic datum at its southern and northern extremities respectively.

Sixthly:-

Part of MacNab Street as shown on Andrew Miller's Survey registered in the said Registry Office as Plan No. 50 and on David Kirkendall's Survey registered in the said Registry Office as Plan No. 39, said MacNab Street now closed by City of Hamilton By-law No. 70-277 dated September 29th, 1970, and registered as Instrument No. 182919 AB designated as Parts 9, 10 and 11 on the said Reference Plan 62R-223 being all of the said Parts 9, 10 and 11 lying between two inclined planes the upper plane having elevations of three hundred and twenty-two point zero feet (322.0') geodetic datum and three hundred and thirty-three point four zero feet (333.40') geodetic datum at its southern and northern extremities respectively, and the lower plane having elevations of three hundred and one point five zero feet (301.50') geodetic datum and three hundred and

fifteen point nine zero feet (315.90') geodetic datum at its southern and northern extremities respectively.

Seventhly:-

Part of MacNab Street as shown on Andrew Miller's Survey registered in the said Registry Office as Plan No. 50 and on David Kirdendall's Survey registered in the said Registry Office as Plan No. 39, said MacNab Street now closed by City of Hamilton By-law No. 70-277 dated September 29th, 1970, and registered as Instrument No. 182919 AB designated as all of Part 12 on the said Reference Plan 62R-223.

The Lessor and the Lessee agree that the following provisions shall relate to the aforesaid vehicular access easement:

1. The Lessee shall construct and pay for the entire cost of the construction of the said vehicular access easement from the southerly limit of Merrick Street to the northerly limit of King Street West and the Lessor shall construct and pay for or cause to be paid the entire cost of the construction of the said vehicular access easement from the northerly limit of King Street West to the northerly limit of Main Street West. The Lessor and the Lessee agree to complete the construction of their respective portions not later than December 1st, 1972 in a manner which will provide for the most economical and effective conjunction of the two portions of the said vehicular access easement. The only encroachments permitted to the Lessee on that portion of the said vehicular access easement shown as Parts 3 to 11 inclusive on the said Reference Plan Number 62R-223 shall be on Parts 3, 5, 6, 8, 9 and 11. Such encroachments which are above the finished floor of the said vehicular access easement on Parts 3, 6 and 9 shall be confined to the westerly one foot (1.0') thereof and on Parts 5, 8 and 11 to the easterly one foot (1.0') thereof and shall in all cases, not exceed one foot (1.0') in height above the finished floor level of the said vehicular access easement. That portion of the said vehicular access easement shown as Parts 6 to 12 and Parts 1, 2 and 15 inclusive

shall be constructed in such a manner so as

- (a) to permit the future widening of the south side of Merrick Street by the lands designated as Part 12 on the said Reference Plan 62R-223,
- (b) to permit the future widening of the east side of MacNab Street South by the lands designated as Part 15 on the said Reference Plan 62R-223,
- (c) to permit the continuing access to the Market Ramp Garage and the Hamilton Central Stall Holders Farmers' Market, the said vehicular access easement being subject to the full and free continuing rights of access of such users, and
- (d) to permit the construction of Phase Two as contemplated by the Development Agreement and during the course of such construction to permit continuing access to that portion of the said vehicular access easement lying to the south of the northerly limit of the demised premises. The Lessor agrees to grant to the Lessee a temporary licence for such purposes.

2. The Lessor shall pay for the repair, maintenance and replacement of that portion of the said vehicular access easement lying to the south of the north limit of King Street West and the Lessee shall pay for the repair, maintenance and replacement of that portion of the said vehicular access easement lying to the north of the north limit of King Street West. The sharing of the costs of such repair, maintenance and replacement with users other than the Lessor and the Lessee shall be as agreed upon by the Lessor, the Lessee and such others and failing agreement the same shall be settled by arbitration pursuant to Section 17.01 of this lease.

3. The use of the said vehicular access easement shall be controlled in such reasonable manner as may be agreed upon by the Lessor and the Lessee having regard to the other users and the Lessor shall have the right to occupy and work within the said vehicular access easement for the purposes for which the Lessor has reserved the hereinbefore described MacNab Street sewer easement.

4. That part of the said vehicular access easement over and through those lands designated as Parts 1, 2 and 15 on the said Reference Plan 62R-223 shall take effect after the acquisition of the said Parts 1, 2 and 15 by the Lessor and after completion of construction of the said vehicular access easement thereon by the Lessor and shall not be affected by any future widening of MacNab Street South or Main Street West.

5. Upon completion, the said vehicular access easement shall be used only in a one-way southbound direction and there shall be no ingress to any underground parking south of the north limit of King Street West.

(c) Sanitary Sewer Connection Easement

There is hereby granted to the Lessee and the right is hereby reserved to the Lessor to grant to the Lessee of Part Two as described in the Development Agreement an easement for the construction, repair, maintenance and replacement of a sanitary sewer connection to the Merrick Street sewer over along upon and through the hereinafter described lands:

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying and being in the City of Hamilton, County of Wentworth, Province of Ontario and being composed of part of MacNab Street as shown on Andrew Miller's Survey registered in the said Registry Office as Plan No. 50 and on David Kirkendall's Survey registered in the said Registry Office as Plan No. 39, said MacNab Street now closed by City of Hamilton By-law No. 70-277 dated September 29th, 1970 and registered as Instrument No. 182919 AB, designated as all of Parts 13 and 14 on a Reference Plan deposited in the said Registry Office as 62R-223.

The Lessee agrees to pay for 65% of the agreed upon cost of the construction, repair, maintenance and replacement of the said sanitary sewer connection and the Lessor, until such time as the said Part Two lands are leased, agrees to pay the remaining 35%. Once the Part Two lands are leased,

the Lessee of the said Part Two lands shall reimburse the Lessor for all moneys expended by it relating to the said sanitary sewer connection and shall be responsible for 35% of all future costs relating thereto. The Lessor and the Lessee shall agree as to the design, cost and method of construction of the said sanitary sewer connection.



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